Bureau of Customs and Border Protection

Treasury Decisions

19 CFR Part 4

(T.D. 03–11)

RIN 1515–AD25

COMPLIANCE WITH INFLATION ADJUSTMENT ACT

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, (the Act), each Federal agency is required to adjust for inflation any civil monetary penalty covered by the Act that may be assessed in connection with violations of those statutes that the agency administers. While civil monetary penalties assessed by Customs under any provisions of the Tariff Act of 1930 are specifically exempted from the Act, Customs does administer two statutory provisions which provide for the assessment of civil monetary penalties that are covered by the Act. One statute concerns the transportation of passengers between ports or places in the United States; the other concerns the coastwise towing of vessels. The amount of the penalty that may be assessed for violations incurred under those statutes needs to be adjusted for inflation. Accordingly, Customs is amending its regulations in order to adjust the covered penalty amounts for inflation in compliance with the provisions of the Act.

EFFECTIVE DATE: March 21, 2003.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings, (202–572–8750).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Federal Civil Penalties Inflation Adjustment Act of 1990 (hereinafter, the Act), which is codified at 28 U.S.C. 2461 note, and which was

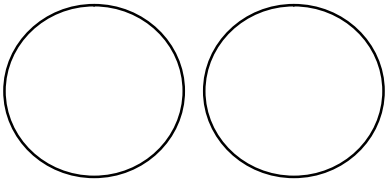
amended in 1996 by the Debt Collection Improvement Act (Public Law 104–134, Section 31001(s); 110 Stat. 1321–373), provides that each Federal agency must adjust for inflation any civil monetary penalties covered by the Act that are assessed in connection with violations that are incurred under those statutes that the agency administers. To this end, pursuant to the Act, as amended by the Debt Collection Improvement Act, the responsible Federal agency was required, by October 23, 1996, to make an initial inflationary adjustment to any civil monetary penalty covered by the Act; and each agency was then required to make these necessary inflationary adjustments at least once every 4 years thereafter.

The Act expressly exempts from its coverage any penalties that Customs may assess for violations that are incurred under any provision of the Tariff Act of 1930, as amended (19 U.S.C. 1202 *et seq*.). However, Customs does administer two statutes that are subject to the Act; and the penalties that Customs may assess for violations of these statutes have not previously been adjusted for inflation as required by the Act.

Specifically, the two statutes administered by Customs that are subject to the Act are 46 U.S.C. App. 289 and 46 U.S.C. App. 316(a). Section 289 prohibits foreign vessels from transporting passengers between ports or places in the United States; the penalty assessed under 46 U.S.C. App. 289 is $200 for every passenger transported in violation of the statute (§ 4.80(b)(2), Customs Regulations (19 CFR 4.80(b)(2))). Section 316(a) prohibits certain vessels from towing any vessel, other than a vessel in distress, between ports or places in the United States embraced within the coastwise laws; the penalties assessed for violations of 46 U.S.C. App. 316(a) are a minimum of $250 to a maximum of $1,000 per violation, plus $50 per ton on the measurement of every vessel towed in violation of the statute (§ 4.92, Customs Regulations (19 CFR 4.92)).

Section 5 of the Act (28 U.S.C. 2461 note, Section 5) provides that civil monetary penalties must be adjusted based upon the cost of living, either by increasing the maximum civil monetary penalty or by increasing the range of minimum and maximum penalties for each civil monetary penalty, as appropriate. Any increase determined under section 5 of the Act is to be rounded to the nearest multiple of $10 in the case of penalties less than or equal to $100, and multiples of $100 in the case of penalties greater than $100 or less than or equal to $1,000.

In calculating the specific amount of the adjustment to any civil monetary penalty covered by the Act, section 5 required that the first such adjustment, which was to be made by October 23, 1996, could not exceed 10 percent of the penalty. Thereafter, in determining the proper adjustment to any civil monetary penalty covered by the Act, section 5 provides for a cost-of-living adjustment that would be determined based on the percentage by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI



for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

Hence, consistent with the provisions of Section 5 of the Act, as described, the civil penalty for violating 46 U.S.C. App. 289 is adjusted to $300 for every passenger transported in violation of the statute; and the civil penalties for violating 46 U.S.C. App. 316(a) are adjusted to a minimum of $350 and a maximum of $1,100, plus $60 per ton on the measurement of every vessel towed in violation of the statute.

Accordingly, this document amends §§ 4.80 and 4.92 of the Customs Regulations (19 CFR 4.80 and 4.92) in order to make the necessary inflation-induced adjustments to the penalties assessed for violations that are incurred under 46 U.S.C. App. 289 and 46 U.S.C. App. 316(a), as mandated by the Act. Furthermore, the specific authority citations for §§ 4.80 and 4.92 are revised to add a reference to the codification of the Act at 28 U.S.C. 2461 note.

ADMINISTRATIVE PROCEDURE ACT, THE REGULATORY FLEXIBILITY ACT, AND EXECUTIVE ORDER 12866

This final rule merely brings the Customs Regulations into conformance with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. As such, pursuant to 5 U.S.C. 553(b)(B) of the Administrative Procedure Act (APA), prior notice and public procedure are unnecessary in this case, and, pursuant to 5 U.S.C. 553(d)(3) of the APA, a delayed effective date is not required. Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.). Nor do these amendments meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

LIST OF SUBJECTS IN 19 CFR PART 4

Administrative practice and procedure, Coastal zone, Inspection, Passenger vessels, Penalties, Reporting and recordkeeping requirements, Vessels.

AMENDMENTS TO THE REGULATIONS

Part 4, Customs Regulations (19 CFR part 4), is amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 continues, and the specific authority citations for §§ 4.80 and 4.92 are revised, to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1624; 46 U.S.C. App. 3, 91;

* * * * * * *

Section 4.80 also issued under 28 U.S.C. 2461 note; 46 U.S.C. 12106; 46 U.S.C. App. 251, 289, 319, 802, 808, 883, 883–1;

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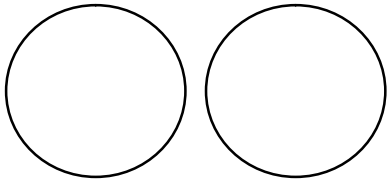


Section 4.92 also issued under 28 U.S.C. 2461 note; 46 U.S.C. App. 316(a);

* * * * * * *

2. Section 4.80 is amended by revising paragraph (b)(2) to read as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

* * * * * * *

(b) *Penalties for violating coastwise laws.* * * *

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is $300 for each passenger so transported and landed (46 U.S.C. App. 289, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990).

* * * * * * *

3. Section 4.92 is amended by revising its second sentence to read as follows:

§ 4.92 Towing.

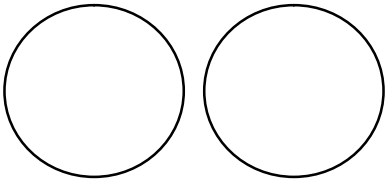
* * * The penalties for violation of this provision are a fine of from $350 to $1100 against the owner or master of the towing vessel and a further penalty against the towing vessel of $60 per ton of the towed vessel (46 U.S.C. App. 316(a), as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990).

ROBERT C. BONNER,
Commissioner of Customs.

Approved: February 25, 2003.

TIMOTHY E. SKUD,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, March 21, 2003 (68 FR 13819)]



19 CFR Part 10

(T.D. 03–12)

RIN 1515–AD22

TRADE BENEFITS UNDER THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document sets forth interim amendments to those provisions of the Customs Regulations that implement the trade benefits for Caribbean Basin countries contained in section 213(b) of the Caribbean Basin Economic Recovery Act (the CBERA). The interim regulatory amendments involve the textile and apparel provisions of section 213(b) and in part reflect changes made to those statutory provisions by section 3107 of the Trade Act of 2002. The specific statutory changes addressed in this document involve the amendment of several provisions to clarify the status of apparel articles assembled from knit-to-shape components, the addition of language requiring any dyeing, printing, and finishing of certain fabrics to be done in the United States, the inclusion of exception language in the brassieres provision regarding articles entered under other CBERA apparel provisions, the addition of a provision permitting the dyeing, printing, and finishing of thread in the Caribbean region, and the addition of a new provision to cover additional production scenarios involving the United States and the Caribbean region. This document also includes a number of other changes to the CBERA textile and apparel implementing regulations to clarify a number of issues that arose after their original publication.

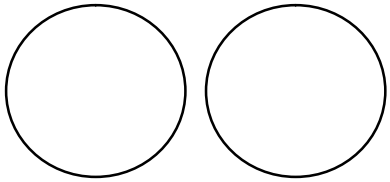
DATES: Interim rule effective March 21, 2003; comments must be submitted by May 20, 2003.

ADDRESSES: Written comments are to be addressed to the U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs Service, 799 9th Street N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Operational issues: Robert Abels, Office of Field Operations (202–927–1959).

Legal issues: Cynthia Reese, Office of Regulations and Rulings (202–572–8790).



SUPPLEMENTARY INFORMATION:

BACKGROUND

Textile and Apparel Articles Under The Caribbean Basin Economic Recovery Act

The Caribbean Basin Economic Recovery Act (the CBERA, also referred to as the Caribbean Basin Initiative, or CBI, statute, codified at 19 U.S.C. 2701–2707) instituted a duty preference program that applies to exports of goods from those Caribbean Basin countries that have been designated by the President as program beneficiaries. On May 18, 2000, the President signed into law the Trade and Development Act of 2000, Public Law 106–200, 114 Stat. 251, which included as Title II the United States-Caribbean Basin Trade Partnership Act, or CBTPA. The CBTPA provisions included section 211 which amended section 213(b) of the CBERA (19 U.S.C. 2703(b)) in order to, among other things, provide in new paragraph (2) for the preferential treatment of certain textile and apparel articles, specified in subparagraph (A), that had previously been excluded from the CBI duty-free program. The preferential treatment for those textile and apparel articles under paragraph (2)(A) of section 213(b) involves not only duty-free treatment but also entry in the United States free of quantitative restrictions, limitations, or consultation levels.

Sections 10.221 through 10.227 of the Customs Regulations (19 CFR 10.221 through 10.227) set forth the legal requirements and procedures that apply for purposes of obtaining preferential treatment of textile and apparel articles pursuant to the provisions added to section 213(b) by the CBTPA. Those regulations were adopted on an interim basis in T.D. 00–68, published in the Federal Register (65 FR 59650) on October 5, 2000, and took effect on October 1, 2000. Action to adopt those interim regulations as a final rule was withheld pending anticipated action on the part of Congress to amend the underlying statutory provisions.

Trade Act of 2002 amendments

On August 6, 2002, the President signed into law the Trade Act of 2002 (the "Act"), Public Law 107–210, 116 Stat. 933. Section 3107(a) of the Act made a number of changes to the textile and apparel provisions of paragraph (2)(A) of section 213(b) of the CBERA. The amendments made by section 3107(a) of the Act were as follows:

1. The article description in the introductory text of paragraph (2)(A)(i) was amended to refer to apparel articles "sewn or otherwise" assembled and to include a reference to articles assembled "from components knit-to-shape." The amended statutory text reads as follows:

> Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or

5603 of the HTS and are wholly formed and cut in the United States) that are * * *.

2. At the end of paragraph (2)(A)(i), two new sentences were added to provide that apparel articles entered on or after September 1, 2002, will qualify for preferential treatment under paragraph (2)(A)(i) only if, in the case of knit fabrics and woven fabrics, all dyeing, printing, and finishing of the fabrics from which the articles are assembled is carried out in the United States. This dyeing, printing, and finishing provision, which applies equally to the articles covered by paragraph (2)(A)(i)(I) and to the articles covered by paragraph (2)(A)(i)(II), reads as follows:

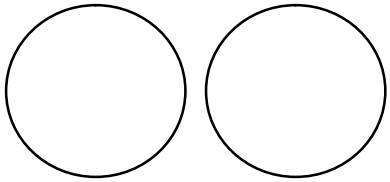
> Apparel articles entered on or after September 1, 2002, shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles entered on or after September 1, 2002, shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.

3. The article description in paragraph (2)(A)(ii) was reorganized in order to accommodate the addition of references to apparel articles "sewn or otherwise" assembled and to apparel articles assembled "from components knit-to-shape in the United States from yarns wholly formed in the United States." In addition, the same dyeing, printing, and finishing language described above was added at the end of this paragraph. The amended paragraph (2)(A)(ii) text reads as follows:

> Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States). Apparel articles entered on or after September 1, 2002, shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles entered on or after September 1, 2002, shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.

4. The quantitative limitation provisions for knit apparel set forth in paragraphs (2)(A)(iii)(II) and (2)(A)(iii)(IV) were revised. These statutory changes do not affect the regulatory provisions and therefore are not dealt with in this document.

5. In paragraph (2)(A)(iv) which covers brassieres, subclause (I) was amended by the addition of exception language regarding articles cov-



ered by certain other clauses under paragraph (2)(A). In addition, subclauses (II) and (III), which set forth 75 and 85 percent U.S. fabric content requirements that apply to articles described in subclause (I) beginning on October 1, 2001, were amended by replacing each reference to "fabric components" with "fabrics," by adding exclusion language regarding findings and trimmings after each reference to fabric(s), and by adding various references to articles that are "entered" and that are "eligible" under clause (iv). Since the subclause (II) and (III) provisions were not dealt with in T.D. 00–68 but rather were the subject of a separate interim rule document (see T.D. 01–74 published in the Federal Register at 66 FR 50534 on October 4, 2001), the changes which section 3107(a) of the Act made to those provisions similarly will be dealt with in a separate rulemaking procedure. Accordingly, this document addresses only that portion of paragraph (2)(A)(iv) text that was dealt with in T.D. 00–68, that is, subclause (I) which, as amended by section 3107(a) of the Act, reads as follows:

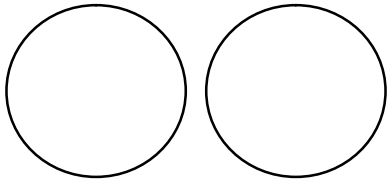
> Subject to subclause (II), any apparel article classifiable under subheading 6212.10 of the HTS, except for articles entered under clause (i), (ii), (iii), (v), or (vi), if the article is both cut and sewn or otherwise assembled in the United States, or one or more CBTPA beneficiary countries, or both.

6. In paragraph (2)(A)(vii) which consists of multiple subclauses setting forth special rules regarding the treatment of certain fibers, yarns, materials or components for purposes of preferential treatment, a new subclause (V) was added to clarify the status of dyed, printed, or finished thread. This new provision reads as follows:

> An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the thread used to assemble the article is dyed, printed, or finished in one or more CBTPA beneficiary countries.

7. Finally, a new clause (ix) was added to paragraph (2)(A) to cover hybrid operations, that is, combinations of various production scenarios described in other clauses under paragraph (2)(A). This new provision, which also incorporates the new dyeing, printing, and finishing language, reads as follows:

> Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from components cut in the United States and in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS). Apparel articles shall qualify under this clause only if they meet the requirements of clause (i) or (ii) (as the case may be) with respect to dyeing, printing, and finishing of knit and woven fabrics from which the articles are assembled.

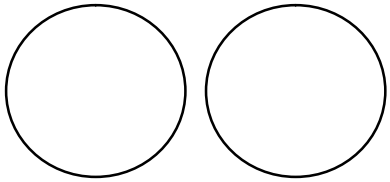


On November 13, 2002, the President signed Proclamation 7626 (published in the Federal Register at 67 FR 69459 on November 18, 2002) which, among other things, in Annex I sets forth modifications to the HTSUS to implement the changes to section 213(b)(2)(A) of the CBERA made by section 3107(a) of the Act. The Proclamation provides that the HTSUS modifications that implement the changes made by section 3107(a) of the Act are effective with respect to eligible articles entered, or withdrawn from warehouse for consumption, on or after August 6, 2002, except that (1) the provisions of Annex I relating to the dyeing, printing, and finishing of fabrics are effective with respect to eligible articles entered, or withdrawn from warehouse for consumption, on or after September 1, 2002, and (2) the provisions of Annex I relating to the new quantitative limits for certain knit apparel and relating to the CBTPA brassieres provision are effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 2002.

On December 31, 2002, the Office of the United States Trade Representative (USTR) published a notice in the Federal Register (67 FR 79954) setting forth technical corrections to the HTSUS to address several inadvertent errors and omissions in various Presidential Proclamations. With regard to Proclamation 7626, this notice made the following two changes to the article description in subheading 9820.11.18, HTSUS: (1) removal of the parenthetical exception reference regarding non-underwear t-shirts, effective on or after October 2, 2000; and (2) insertion of the words ", or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both" after the phrase "from yarns wholly formed in the United States," effective on or after August 6, 2002.

Changes to the interim regulatory texts

As a consequence of the statutory changes described above and as a result of the modifications to the HTSUS made by Proclamation 7626 and by the December 31, 2002, USTR notice, the interim CBTPA implementing regulations published in T.D. 00–68 no longer fully reflect the current state of the law. In addition, following publication of those interim regulations, a number of other issues came to the attention of Customs that warrant clarification in the CBTPA implementing regulations. Accordingly, this document sets forth interim amendments to the CBTPA implementing regulations, with provision for public comment on those changes, to reflect the amendments to the statute mentioned above and to clarify or otherwise improve those previously published regulations. It is the intention of Customs, after the close of the public comment period prescribed in this document, to publish one document that (1) addresses both the comments submitted on the interim regulations published in T.D. 00–68 and the comments submitted on the interim regulations set forth in this document and (2) adopts, as a final rule, the CBTPA implementing regulations contained in the two interim rule documents with any additional changes as may be ap-



propriate based on issues raised in the submitted public comments. The interim regulatory changes contained in this document are discussed below.

Amendments to reflect the statutory changes

The interim regulatory amendments set forth in this document that are in response to the statutory changes made to section 213(b) of the CBERA by section 3107(a) of the Act are as follows:

1. In § 10.223, paragraphs (a)(1) and (a)(2) are revised to conform to the amendment of the product description in the introductory text of paragraph (2)(A)(i) of the statute. The amended regulatory text in each case includes a cross-reference to new paragraph (b), discussed below, which addresses, among other things, the new statutory provision regarding dyeing, printing, and finishing of fabrics.

2. In § 10.223, paragraph (a)(3) is revised to conform to the amendment of the product description in paragraph (2)(A)(ii) of the statute. The amended regulatory text also includes a cross-reference to new paragraph (b), discussed below, which addresses the new statutory provision regarding dyeing, printing, and finishing of fabrics.

3. In § 10.223, paragraph (a)(6) is revised to conform to the amendment of the description of brassieres contained in subclause (I) of paragraph (2)(A)(iv) of the statute.

4. In § 10.223, paragraph (a)(12), which corresponds to subheading 9820.11.18, HTSUS, is revised in order to (1) reflect the HTSUS changes made in the December 31, 2002, USTR notice discussed above and (2) include a cross-reference to new paragraph (b), discussed below, which addresses the new statutory provision regarding dyeing, printing, and finishing of fabrics.

5. In § 10.223, a new paragraph (a)(13) is added to cover the hybrid operations described in new clause (ix) of paragraph (2)(A) of the statute. This new provision also includes a cross-reference to new paragraph (b) which addresses the new statutory provision regarding dyeing, printing, and finishing of fabrics.

6. In § 10.223, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d) and a new paragraph (b) is added primarily to address the issue of dyeing, printing, and finishing of fabrics. The following points are noted regarding this new paragraph (b) text:

a. Customs believes that it is preferable to set forth the basic statutory dyeing, printing, and finishing rule in one place in the regulations rather than repeat it in each of the article description contexts to which the rule relates. Customs notes that this is similar to the approach taken for HTSUS purposes in Annex I to Proclamation 7626 referred to above.

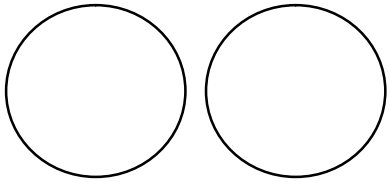
b. As regards the structure of paragraph (b), it is divided into two parts. Paragraph (b)(1) covers dyeing, printing, and finishing operations and consists of a general statement followed by two specific limitations, the first one of which addresses the statutory rule adopted in the Trade Act of 2002. Paragraph (b)(2) covers post-assembly and other operations (for example, embroidering, stone-washing, perma-pressing,

garment-dyeing) and consists of a general statement followed by one specific limitation.

c. The general statements regarding dyeing, printing, and finishing operations in paragraph (b)(1) and regarding other operations in paragraph (b)(2) are specifically intended to clarify the status of those operations under the CBTPA program when applied to yarns, fabrics, components and articles in those contexts that are not directly addressed in the statutory texts. The general statement in each case provides that the operations in question may be performed on any yarn or fabric or component, or on any article, without affecting the eligibility of an article for preferential treatment, provided that the dyeing, printing, finishing, or other operation is performed only in the United States or in a CBTPA beneficiary country. Customs believes that limiting those processes to the United States and CBTPA beneficiary countries is consistent with the overall objective of the CBTPA program. Customs notes in this regard that the Conference Report relating to the CBTPA legislation (House Report 106–606, 106th Congress, 2d Session) states the conferees' intent to foster increased opportunities for U.S. textile and apparel companies to expand co-production arrangements with CBTPA beneficiary countries. Moreover, the findings of Congress in section 202 of the Trade and Development Act of 2000 specifically referred to the offering of benefits to Caribbean Basin countries to "promote the growth of free enterprise and economic opportunity in those neighboring countries." Those findings also stated that "increased trade and economic activity between the United States and countries in the Western Hemisphere will create new jobs in the United States as a result of expanding export opportunities."

d. The dyeing, printing, and finishing provision of paragraph (b)(1)(i) corresponds to the statutory provision and therefore refers specifically to articles described in paragraphs (a)(1), (a)(2), (a)(3), (a)(12), and (a)(13) of § 10.223. However, the regulatory text refers to knitted "or crocheted" fabrics, in order to reflect the terminology employed in Annex I to Proclamation 7626. In addition, this regulatory text includes a reference to a fabric component "produced from fabric" in order to (1) reflect the fact that apparel articles are most often assembled from apparel components rather than from fabrics and (2) clarify the Customs position that knitting to shape does not create a fabric but rather results in the creation of a component that is ready for assembly without having gone through a fabric stage.

e. The second provision under the general rule regarding dyeing, printing, and finishing operations, set forth in paragraph (b)(1)(ii), reflects the principle that in the case of assembled articles described in paragraph (a)(1), and in the case of assembled luggage described in paragraph (a)(10), an operation that is incidental to the assembly process may be performed in a CBTPA beneficiary country. This provision reflects the terms of subheading 9802.00.80, HTSUS, and the regulations



under that HTSUS provision which include, in 19 CFR 10.16(c), a list of operations not considered incidental to assembly.

f. The statement in the last sentence of paragraph (b)(2) regarding other operations is included for the same reason stated at point e. above in connection with paragraph (b)(1) concerning operations incidental to assembly under subheading 9802.00.80, HTSUS.

7. In § 10.223, a new subparagraph (3) is added at the end of redesignated paragraph (c) to cover the new statutory provision regarding dyed, printed, or finished thread.

8. Finally, the preference group descriptions on the Certificate of Origin set forth under paragraph (b) of § 10.224 are revised to reflect the amended product descriptions in the statute and to include a reference to articles covered by new clause (ix) of paragraph (2)(A) of the statute and paragraph (a)(13) of § 10.223.

Other amendments

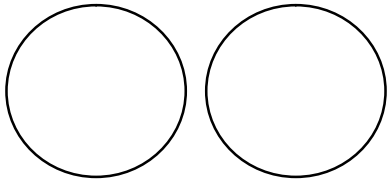
In addition to the regulatory amendments described above that result from the changes made to section 213(b) of the CBERA by section 3107(a) of the Act, Customs has included in this document a number of other changes to the interim regulations published in T.D. 00–68. These additional changes, which are intended to clarify or otherwise improve the interim regulatory texts, are as follows:

1. In § 10.222, in the text of the definition of "assembled in one or more CBTPA beneficiary countries," the word "CBTPA" is added before the words "beneficiary countries."

2. Customs believes that it would be useful to include a definition of "luggage" in the regulatory texts in order to clarify the scope of paragraphs (a)(10) and (a)(11) of § 10.223. Customs further believes that the meaning of this term should be consistent with trade practice to the greatest extent practicable. While no definition of luggage appears in the HTSUS, it is noted that this term was defined with specificity in the Subpart D headnotes to Schedule 7 of the predecessor Tariff Schedules of the United States (TSUS). Customs believes that the TSUS definition is consistent with what the industry would consider "luggage" to have been then and to be now. Accordingly, § 10.222 is amended by the inclusion of a new definition of "luggage" that is based on the definition that appeared in the TSUS.

3. Customs has found two errors in the § 10.222 definition of "wholly formed" as it relates to yarns or thread. First, the reference to "thread" in this context is inappropriate because the CBTPA texts do not use the expression "wholly formed" with reference to thread (thread needs only to be "formed" in the United States). Second, Customs failed to provide for textile strip classified in headings 5404 and 5405 of the HTSUS.

Regarding the second point, it is noted that textile strip may be formed by extrusion, similar to the formation of filaments, or may be formed by slitting plastic film or sheet. With regard to what may be considered to be a yarn, Customs notes that "yarn" is defined in the *Dictionary of Fiber & Textile Technology* (KoSa, 1999), at 222, as follows: "A



generic term for a continuous strand of textile fibers, filaments, or material in a form suitable for knitting, weaving, or otherwise intertwining to form a textile fabric. Yarn occurs in the following forms: (1) a number of fibers twisted together (spun yarn), (2) a number of filaments laid together without twist (a zero-twist yarn), (3) a number of filaments laid together with a degree of twist, (4) a single filament with or without twist (a monofilament), or (5) a narrow strip of material, such as paper, plastic film, or metal foil, with or without twist, intended for use in a textile construction." The identical definition is found in *Dictionary of Fiber & Textile Technology* (Hoechst Celanese, 1990) at 181. There is nothing to indicate that Congress intended textile strip to be excluded from use in the CBTPA, and Customs believes the term "yarn" may be understood to include that type of material.

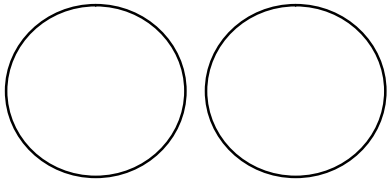
Accordingly, the definition of "wholly formed" as it relates to yarns is amended in this document by removing the words "or thread" and by adding language regarding textile strip.

4. In § 10.223(a)(4), in the second parentheses, the words "classifiable under subheadings 6109.10.00 and 6109.90.10 of the HTSUS and described in paragraph (a)(5) of this section" are added in order to align the text more closely on the corresponding wording in HTSUS subheading 9820.11.09.

5. With reference to the findings, trimmings and interlinings provisions under redesignated § 10.223(c)(1), Customs believes that it would be useful to specify in the regulatory texts an appropriate basis for determining the "cost" of the components and the "value" of the findings and trimmings and interlinings. Customs further believes that the standard should be based on the regulations that apply to components and materials under subheading 9802.00.80, HTSUS (in particular, 19 CFR 10.17), and under the GSP (in particular, 19 CFR 10.177(c)). Accordingly, this document adds a new subparagraph (ii) to § 10.223(c)(1), with former subparagraph (ii) consequently redesignated as (iii), to address this point.

6. In addition to the modification of the preference group descriptions on the Textile Certificate of Origin set forth under § 10.224(b) as discussed above, the format of the Certificate is modified and some of the blocks are reworded solely for purposes of clarity. The instructions for completion of the Certificate in paragraph (c) of § 10.224 are also revised to reflect the changes made to the Certificate and to provide additional clarification regarding its completion, including provision for signature by an exporter's authorized agent having knowledge of the relevant facts.

7. In the case of articles described in §§ 10.223(a)(1) and (a)(10), § 10.225(a) as published in T.D. 00–68 provided for the inclusion of the symbol "R" as a prefix to the applicable Chapter 98, HTSUS, subheading (that is subheading 9802.00.80) as the means for making the required written declaration on the entry documentation. This procedure was adopted because, contrary to the case of the other articles described



in § 10.223(a), no unique HTSUS subheading had been identified for these two groups of articles when T.D. 00–68 was published. Unique HTSUS subheadings now exist for these two groups of articles (that is, subheading 9802.00.8044 in the case of § 10.223(a)(1) articles and subheading 9802.00.8046 in the case of § 10.223(a)(10) articles). Accordingly, § 10.225(a) has been modified to prescribe the same entry documentation declaration procedure for all articles described in § 10.223, that is, inclusion of the HTSUS Chapter 98 subheading under which the article is classified.

8. In § 10.227(a)(2) and (3), the words "in a CBTPA beneficiary country" have been removed in recognition of the fact that verification of documentation and other information regarding country of origin and verification of evidence regarding the use of U.S. materials might take place outside a beneficiary country, for example within the United States.

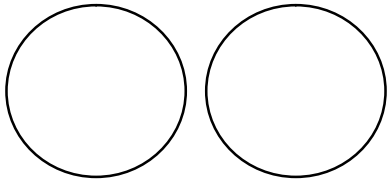
9. Finally, in addition to those conforming changes already noted above, some paragraph or other references within regulatory text in §§ 10.223, 226 and 10.227 have been changed to conform to changes to the regulatory texts discussed above.

COMMENTS

Before adopting these interim regulations as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.5 of the Treasury Department Regulations (31 CFR 1.5), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, U.S. Customs Service, 799 9th Street, N.W., Washington, D.C. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS AND THE REGULATORY FLEXIBILITY ACT

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that prior public notice and comment procedures on these regulations are unnecessary and contrary to the public interest. The regulatory changes provide trade benefits to the importing public, in some cases implement direct statutory mandates, and are necessary to carry out the preferential treatment and United States tariff changes proclaimed by the President under the Caribbean Basin Economic Recovery Act. For the same reasons, pursuant to the provisions of 5 U.S.C. 553(d)(1) and (3), Customs finds that there is good cause for dispensing with a delayed effective date. Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.) do not apply.



EXECUTIVE ORDER 12866

This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

PAPERWORK REDUCTION ACT

The collection of information contained in this interim rule has previously been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) under OMB control number 1515–0226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

DRAFTING INFORMATION

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 10

Assembly, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Reporting and recordkeeping requirements, Trade agreements.

AMENDMENTS TO THE REGULATIONS

For the reasons set forth in the preamble, Part 10 of the Customs Regulations (19 CFR Part 10) is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for Part 10 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * * * *

Sections 10.221 through 10.228 and §§ 10.231 through 10.237 also issued under 19 U.S.C. 2701 *et seq.*

2. In § 10.222:

a. The text of the definition of "assembled in one or more CBTPA beneficiary countries" is amended by adding the word "CBTPA" between the words "more" and "beneficiary";

b. A new definition of "luggage" is added; and

c. The text of the definition of "wholly formed" is amended by removing the words "or thread" and adding after "filament" the words ", strip, film, or sheet and including slitting a film or sheet into strip,".

The addition reads as follows:

§ 10.222 Definitions.

* * * * * * *

Luggage. "Luggage" means travel goods (such as trunks, hand trunks, lockers, valises, satchels, suitcases, wardrobe cases, overnight bags, pullman bags, gladstone bags, traveling bags, knapsacks, kitbags, haversacks, duffle bags, and like articles designed to contain clothing or other personal effects during travel) and brief cases, portfolios, school bags, photographic equipment bags, golf bags, camera cases, binocular cases, gun cases, occupational luggage cases (for example, physicians' cases, sample cases), and like containers and cases designed to be carried with the person. The term "luggage" does not include handbags (that is, pocketbooks, purses, shoulder bags, clutch bags, and all similar articles, by whatever name known, customarily carried by women or girls). The term "luggage" also does not include flat goods (that is, small flatware designed to be carried on the person, such as banknote cases, bill cases, billfolds, bill purses, bill rolls, card cases, change cases, cigarette cases, coin purses, coin holders, compacts, currency cases, key cases, letter cases, license cases, money cases, pass cases, passport cases, powder cases, spectacle cases, stamp cases, vanity cases, tobacco pouches, and similar articles).

* * * * * * *

3. In § 10.223:

a. Paragraphs (a)(1), (a)(2) and (a)(3) are revised;

b. Paragraph (a)(4) is amended by removing the words "(other than non-underwear t-shirts)" and adding, in their place, the words "(other than non-underwear t-shirts classifiable under subheadings 6109.10.00 and 6109.90.10 of the HTSUS and described in paragraph (a)(5) of this section)";

c. Paragraph (a)(6) is revised;

d. Paragraph (a)(11) is amended by removing the word "and" after the semicolon;

e. Paragraph (a)(12) is revised;

f. A new paragraph (a)(13) is added;

g. Paragraphs (b) and (c) are redesignated as paragraphs (c) and (d) respectively and a new paragraph (b) is added; and

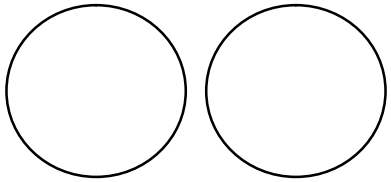
h. In newly redesignated paragraph (c), paragraph (c)(1)(ii) is redesignated as paragraph (c)(1)(iii), newly redesignated paragraph (c)(1)(iii) is amended by removing the words "paragraph (b)(1)(i)(A)" and adding, in their place, the words "paragraph (c)(1)(i)(A)" and removing the words "paragraph (b)(1)(i)" and adding, in their place, the words "paragraph (c)(1)(i)", and new paragraphs (c)(1)(ii) and (c)(3) are added.

The revisions and additions read as follows:

§ 10.223 Articles eligible for preferential treatment.

(a) * * *

(1) Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut, or



from components knit-to-shape, in the United States, from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under subheading 9802.00.80 of the HTSUS, and provided that any other processing involving the article conforms to the rules set forth in paragraph (b) of this section;

(2) Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States, from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under Chapter 61 or 62 of the HTSUS, if, after that assembly, the articles would have qualified for entry under subheading 9802.00.80 of the HTSUS but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes in a CBTPA beneficiary country, and provided that any other processing involving the article conforms to the rules set forth in paragraph (b) of this section;

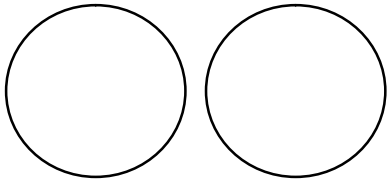
(3) Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in the United States), and provided that any other processing involving the article conforms to the rules set forth in paragraph (b) of this section;

* * * * * * *

(6) Brassieres classifiable under subheading 6212.10 of the HTSUS, if both cut and sewn or otherwise assembled in the United States, or in one or more CBTPA beneficiary countries, or in both, other than articles entered as articles described in paragraphs (a)(1) through (a)(5), paragraphs (a)(7) through (a)(9), or paragraph (a)(12), and provided that any applicable additional requirements set forth in § 10.228 are met;

* * * * * * *

(12) Knitted or crocheted apparel articles cut and assembled in one or more CBTPA beneficiary countries from fabrics wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are formed wholly in the United States), provided that the assembly is with thread formed in the United States, and provided that



any other processing involving the article conforms to the rules set forth in paragraph (b) of this section; and

(13) Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States:

(i) From components cut in the United States and in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS);

(ii) From components knit-to-shape in the United States and one or more CBTPA beneficiary countries from yarns wholly formed in the United States; or

(iii) From any combination of two or more of the cutting or knitting-to-shape operations described in paragraph (a)(13)(i) or paragraph (a)(13)(ii) of this section; and

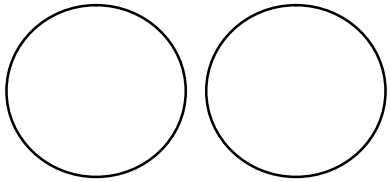
(iv) Provided that any processing not described in this paragraph (a)(13) conforms to the rules set forth in paragraph (b) of this section.

(b) *Dyeing, printing, finishing and other operations*—(1) *Dyeing, printing and finishing operations*. Dyeing, printing, and finishing operations may be performed on any yarn, fabric, or knit-to-shape or other component used in the production of any article described under paragraph (a) of this section without affecting the eligibility of the article for preferential treatment, provided that the operation is performed in the United States or in a CBTPA beneficiary country and not in any other country and subject to the following additional conditions:

(i) In the case of an article described in paragraph (a)(1), (a)(2), (a)(3), (a)(12), or (a)(13) of this section that is entered on or after September 1, 2002, and that contains a knitted or crocheted or woven fabric, or a knitted or crocheted or woven fabric component produced from fabric, that was wholly formed in the United States from yarns wholly formed in the United States, any dyeing, printing, or finishing of that knitted or crocheted or woven fabric or component must have been carried out in the United States; and

(ii) In the case of assembled luggage described in paragraph (a)(10) of this section, an operation may be performed in a CBTPA beneficiary country only if that operation is incidental to the assembly process within the meaning of § 10.16.

(2) *Other operations*. An article described under paragraph (a) of this section that is otherwise eligible for preferential treatment will not be disqualified from receiving that treatment by virtue of having undergone one or more operations such as embroidering, stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing or screen printing, provided that the operation is performed in the United States or in a CBTPA beneficiary country and not in any other country. However, in the case of assembled luggage described in paragraph (a)(10) of this section, an operation may be performed in a CBTPA beneficiary country without affecting the eligibility



of the article for preferential treatment only if it is incidental to the assembly process within the meaning of § 10.16.

(c) * * *

(1) * * *

(ii) *"Cost" and "value" defined*. The "cost" of components and the "value" of findings and trimmings or interlinings referred to in paragraph (c)(1)(i) of this section means:

(A) The price of the components, findings and trimmings, or interlinings when last purchased, f.o.b. port of exportation, as set out in the invoice or other commercial documents, or, if the price is other than f.o.b. port of exportation:

(*1*) The price as set out in the invoice or other commercial documents adjusted to arrive at an f.o.b. port of exportation price; or

(*2*) If no exportation to a CBTPA beneficiary country is involved, the price as set out in the invoice or other commercial documents, less the freight, insurance, packing, and other costs incurred in transporting the components, findings and trimmings, or interlinings to the place of production if included in that price; or

(B) If the price cannot be determined under paragraph (c)(1)(ii)(A) of this section or if Customs finds that price to be unreasonable, all reasonable expenses incurred in the growth, production, manufacture, or other processing of the components, findings and trimmings, or interlinings, including the cost or value of materials and general expenses, plus a reasonable amount for profit, and the freight, insurance, packing, and other costs, if any, incurred in transporting the components, findings and trimmings, or interlinings to the port of exportation.

* * * * * * *

(3) *Dyed, printed, or finished thread*. An article otherwise described under paragraph (a) of this section will not be ineligible for the preferential treatment referred to in § 10.221 because the thread used to assemble the article is dyed, printed, or finished in one or more CBTPA beneficiary countries.

* * * * * * *

4. In § 10.224, paragraphs (b) and (c) are revised to read as follows:

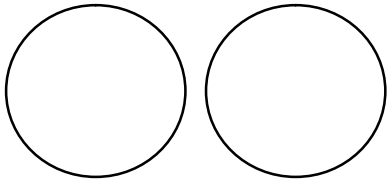
§ 10.224 Certificate of Origin.

* * * * * * *

(b) *Form of Certificate*. The Certificate of Origin referred to in paragraph (a) of this section must be in the following format:

CARIBBEAN BASIN TRADE PARTNERSHIP ACT
TEXTILE CERTIFICATE OF ORIGIN

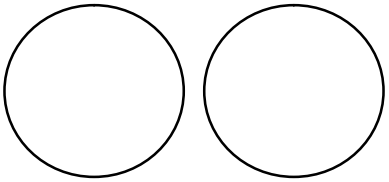
1. Exporter Name & Address:	3. Importer Name & Address:
2. Producer Name & Address:	4. Preference Group:
5. Description of Article:	



Group	Each description below is only a summary of the cited CFR provision.	19 CFR
A.	Apparel assembled from U.S. formed and cut fabrics and/or knit-to-shape components, from U.S. yarns.	10.223(a)(1)
B.	Apparel assembled and further processed from U.S. formed and cut fabrics and/or knit-to-shape components, from U.S. yarns.	10.223(a)(2)
C.	Apparel (except apparel in group K) assembled with U.S. thread, cut from U.S. formed fabrics from U.S. yarns, and may include components knit-to-shape in the United States from U.S. yarns.	10.223(a)(3)
D.	Apparel knit-to-shape in the region from U.S. yarn (except socks in heading 6115); and knit apparel cut and assembled from regional or regional and U.S. fabrics from U.S. yarn. This group does not include non-underwear t-shirts in group E.	10.223(a)(4)
E.	Non-underwear t-shirts in subheading 6109.10.00 & 6109.90.10 made of regional fabric from U.S. yarn.	10.223(a)(5)
F.	Brassieres cut and assembled in the United States and/or one or more CBTPA beneficiary countries.	10.223(a)(6)
G.	Apparel assembled from fabrics or yarns considered in short supply in the NAFTA, or designated as not available in commercial quantities in the United States.	10.223(a)(7) 10.223(a)(8)
H.	Handloomed fabrics, handmade articles made of handloomed fabrics, or textile folklore articles—as defined in bilateral consultations.	10.223(a)(9)
I.	Textile luggage assembled from U.S. formed and cut fabric from U.S. yarns.	10.223(a)(10)
J.	Textile luggage cut and assembled from U.S. fabric from U.S. yarn.	10.223(a)(11)
K.	Knit apparel assembled with U.S. thread, cut from U.S. formed fabrics from U.S. yarns, and may include components knit-to-shape in the United States from U.S. yarns.	10.223(a)(12)
L.	Apparel assembled with U.S. thread from (1) U.S. fabric cut in the United States and the region, or (2) components knit-to-shape in the United States and the region, or (3) a combination of cutting and knitting-to-shape in the United States or the region.	10.223(a)(13)

6. U.S./Caribbean Fabric Producer Name & Address:	7. U.S./Caribbean Yarn Producer Name & Address:
	8. U.S. Thread Producer Name & Address:
9. Handloomed, Handmade, or Folklore Article:	10. Name of Short Supply Fabric or Yarn:

I certify that the information on this document is complete and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document. I agree to maintain, and present upon request, documentation necessary to support this certificate.



11. Authorized Signature:		12. Company:
13. Name: (Print or Type)		14. Title:
15. Date: (DD/MM/YY)	16. Blanket Period From: To:	17: Telephone: Facsimile:

(c) *Preparation of Certificate*. The following rules will apply for purposes of completing the Certificate of Origin set forth in paragraph (b) of this section:

(1) Blocks 1 through 5 pertain only to the final article exported to the United States for which preferential treatment may be claimed;

(2) Block 1 should state the legal name and address (including country) of the exporter;

(3) Block 2 should state the legal name and address (including country) of the producer. If there is more than one producer, attach a list stating the legal name and address (including country) of all additional producers. If this information is confidential, it is acceptable to state "available to Customs upon request" in block 2. If the producer and the exporter are the same, state "same" in block 2;

(4) Block 3 should state the legal name and address (including country) of the importer;

(5) In block 4, insert the letter that designates the preference group which applies to the article according to the description contained in the CFR provision cited on the Certificate for that group;

(6) Block 5 should provide a full description of each article. The description should be sufficient to relate it to the invoice description and to the description of the article in the international Harmonized System. Include the invoice number as shown on the commercial invoice or, if the invoice number is not known, include another unique reference number such as the shipping order number;

(7) Blocks 6 through 10 must be completed only when the block in question calls for information that is relevant to the preference group identified in block 4;

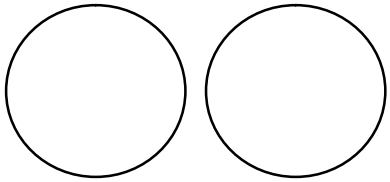
(8) Block 6 should state the legal name and address (including country) of the fabric producer;

(9) Block 7 should state the legal name and address (including country) of the yarn producer;

(10) Block 8 should state the legal name and address (including country) of the thread producer;

(11) Block 9 should state the name of the folklore article or should state that the article is handloomed or handmade of handloomed fabric;

(12) Block 10 should be completed if the article described in block 5 incorporates a fabric or yarn described in preference group G and should state the name of the fabric or yarn that has been considered as being in short supply in the NAFTA or that has been designated as not available in commercial quantities in the United States;



(13) Block 11 must contain the signature of the exporter or of the exporter's authorized agent having knowledge of the relevant facts;

(14) Block 15 should reflect the date on which the Certificate was completed and signed;

(15) Block 16 should be completed if the Certificate is intended to cover multiple shipments of identical articles as described in block 5 that are imported into the United States during a specified period of up to one year (see § 10.226(b)(4)(ii)). The "from" date is the date on which the Certificate became applicable to the article covered by the blanket Certificate (this date may be prior to the date reflected in block 15). The "to" date is the date on which the blanket period expires; and

(16) The Certificate may be printed and reproduced locally. If more space is needed to complete the Certificate, attach a continuation sheet.

5. In § 10.225, paragraph (a) is revised to read as follows:

§ 10.225 Filing of claim for preferential treatment.

(a) *Declaration*. In connection with a claim for preferential treatment for a textile or apparel article described in § 10.223, the importer must make a written declaration that the article qualifies for that treatment. The inclusion on the entry summary, or equivalent documentation, of the subheading within Chapter 98 of the HTSUS under which the article is classified will constitute the written declaration. Except in any of the circumstances described in § 10.226(d)(1), the declaration required under this paragraph must be based on a Certificate of Origin that has been completed and properly executed in accordance with § 10.224 and that covers the article being imported.

* * * * * * *

6. In § 10.226, the second sentence of paragraph (b)(4)(ii) is amended by removing the reference "§ 10.224(c)(14)" and adding, in its place, the reference "§ 10.224(c)(15)".

7. In § 10.227:

a. Paragraph (a)(2) is amended by removing the words "in a CBTPA beneficiary country";

b. Paragraph (a)(3) is amended by removing the words "in a CBTPA beneficiary country"; and

c. Paragraph (b)(3) is amended by removing the words "§ 10.223(c)(3)(i) through (iii)" and adding, in their place, the words "§ 10.223(d)(3)(i) through (iii)".

ROBERT C. BONNER,
Commissioner of Customs.

Approved: February 28, 2003.

TIMOTHY E. SKUD,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, March 21, 2003 (68 FR 13827)]

19 CFR Part 12

(T.D. 03–13)

RIN 1515–AD15

ENTRY OF CERTAIN STEEL PRODUCTS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, a proposed amendment to the Customs Regulations to set forth special requirements for the entry of certain steel products. The steel products in question are primarily those designated by the President in Proclamation 7529 for increased duty or tariff-rate quota treatment under the safeguard provisions of section 203 of the Trade Act of 1974. The amendment requires the inclusion of an import license number on the entry summary or foreign-trade zone admission documentation filed with Customs for any steel product for which the U.S. Department of Commerce requires an import license under its steel licensing and import monitoring program.

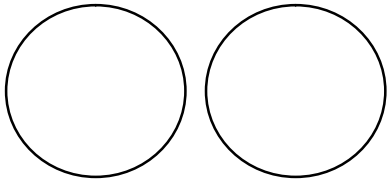
EFFECTIVE DATE: Final rule effective: March 21, 2003.

FOR FURTHER INFORMATION CONTACT: Lisa Santana, Office of Field Operations (202–927–4342).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 5, 2002, President Bush signed Proclamation 7529 "To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products," which was published in the Federal Register (67 FR 10553) on March 7, 2002. The Proclamation was issued under section 203 of the Trade Act of 1974, as amended (19 U.S.C. 2253), and was in response to determinations by the U.S. International Trade Commission (ITC) under section 202 of the Trade Act of 1974, as amended (19 U.S.C. 2252), that certain steel products were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industries producing like or directly competitive articles. The action taken by the President in the Proclamation consisted of the implementation of certain "safeguard measures," specifically, the imposition of a tariff-rate quota on imports of specified steel slabs and an increase in duties on other specified steel products. The Proclamation included an Annex setting forth appropriate modifications to the Harmonized Tariff Schedule of the United States (HTSUS) to effectuate the President's action. The modifications to the HTSUS, which involved Subchapter III of Chapter

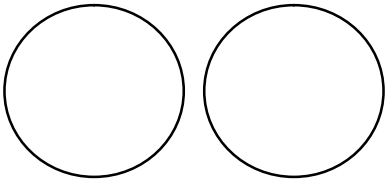


99 and included the addition of a new U.S. Note 11 and the addition of numerous new subheadings to cover the affected steel products, were made effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after March 20, 2002.

On March 5, 2002, the President issued a Memorandum to the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative entitled "Action Under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products," which also was published in the Federal Register (67 FR 10593) on March 7, 2002. The Memorandum included an instruction to the Secretary of the Treasury and the Secretary of Commerce to establish a system of import licensing to facilitate the monitoring of imports of certain steel products. In addition, the Memorandum instructed the Secretary of Commerce, within 120 days of the effective date of the safeguard measures established by Proclamation 7529, to publish regulations in the Federal Register establishing the system of import licensing.

On July 18, 2002, the International Trade Administration of the Department of Commerce published in the Federal Register (67 FR 47338) a proposed rule to establish a steel licensing and surge monitoring system as instructed by the President in the March 5, 2002, Memorandum. Under the Commerce proposal, all importers of steel products covered by the President's section 203 action, including those products subject to country exemptions or product exclusions, would be required to obtain a steel import license and to provide the license information (that is, the license number) to Customs except in the case of merchandise which is eligible for informal entry under § 143.21 of the Customs Regulations (19 CFR 143.21). Commerce proposed to institute a registration system for steel importers, and steel import licenses would be issued to registered importers, customs brokers or their agents through an automatic steel import licensing system. Once registered, an importer or broker would submit the required license application information electronically to Commerce, and the system would then automatically issue a steel import license number for inclusion on the entry summary documentation filed with Customs.

Although the Presidential Memorandum of March 5, 2002, vested primary responsibility for the steel product import licensing and monitoring procedures in the Secretary of Commerce, the Secretary of the Treasury, through the U.S. Customs Service, is primarily responsible for the promulgation and administration of regulations regarding the importation and entry of merchandise in the United States. Accordingly, on August 9, 2002, Customs published in the Federal Register (67 FR 51800) a notice of proposed rulemaking to amend the Customs Regulations to provide an appropriate regulatory basis for the collection of the steel import license number on the entry summary documentation in accordance with the proposed regulatory standards promulgated by the Department of Commerce. The proposed amendment involved the addition of a new § 12.145 (19 CFR 12.145) to require the inclusion of a steel



import license number on the entry summary in any case in which a steel import license number is required to be obtained under regulations promulgated by the Department of Commerce.

The August 9, 2002, notice included in the preamble a discussion of the potential consequences under the importer's bond for a failure to provide the required steel import license number to Customs on a timely basis and included a statement that, after new § 12.145 has been adopted as a final rule, Customs would publish appropriate guidelines which could outline circumstances in which liquidated damage claims in these cases may be reduced to $50 for a late filing of the required information or to $100 in the case of a complete failure to file the information. The August 9, 2002, notice also invited the public to submit written comments on the proposed regulatory amendment for consideration by Customs prior to taking final action of the proposal.

On December 31, 2002, the International Trade Administration of the Department of Commerce published in the Federal Register (67 FR 79845) a final rule document to add new regulations implementing the Steel Import Licensing and Surge Monitoring program. Those regulations, set forth at 19 CFR Part 360, consist of eight sections (§§ 360.101–360.108) and reflect, with some changes, the proposals outlined in the proposed rule published by the Department of Commerce on July 31, 2002. Those changes reflected in the final regulatory texts adopted by Commerce that have a substantive impact on the text of § 12.145 as proposed by Customs are identified in the discussion of comments on the Customs proposal set forth below.

DISCUSSION OF COMMENTS

Three commenters responded to the solicitation of comments in the August 9, 2002, notice of proposed rulemaking. Those comments are summarized and responded to below.

Comment:

One commenter asserted that foreign-trade zone (FTZ) activities are part of the U.S. economic territory (even though they are legally defined as outside the customs territory of the United States) and that FTZ-stored steel constitutes part of U.S. steel inventories. This commenter therefore argued that FTZ activities must be included in the steel import licensing system and, further, that this FTZ license requirement should be imposed once, that is, at the time of admission of the steel into the FTZ.

Customs response:

Customs notes that the issue raised by this commenter concerns the scope of the steel import licensing program which is a matter for which the Department of Commerce, rather than Customs, is responsible; therefore, Customs has no authority to impose the standard suggested by this commenter. However, Customs also notes in this regard that whereas under the July 18, 2002, Department of Commerce proposals a license would have been required for steel products twice, that is, as they

entered and as they left an FTZ, the Commerce regulations adopted in the December 31, 2002, final rule document have addressed the concern raised by this commenter. Section 360.101(c) of those regulations specifically provides that all shipments of covered steel products into FTZs will require an import license prior to the filing of FTZ admission documents, that the license number(s) must be reported on the application for FTZ admission and/or status designation (Customs Form 214) at the time of filing, and that a further steel license will not be required for shipments from FTZs into the commerce of the United States.

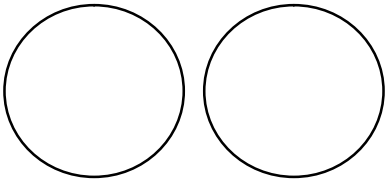
In order to reflect the standard regarding FTZ transactions set forth in the Commerce regulation referred to above, Customs in this final rule document has redrafted proposed § 12.145 to accommodate a reference to inclusion of the appropriate license number on Customs Form 214 at the time of filing with Customs. Thus, under the revised text, the import license number must be provided to Customs in two basic circumstances: (1) on Customs Form 7501 (or an electronic equivalent) in the case of entered merchandise; and (2) on Customs Form 214 in the case of merchandise admitted into an FTZ. In addition, the opening exception clause regarding informal entry that was included in the proposed text has not been retained in the revised § 12.145 text because it is covered in the license issuance standards promulgated by Commerce and thus does not have to be repeated here.

Comment:

A commenter stated that in administrative message 02–0910 dated July 19, 2002, Customs presented a proposed methodology for enforcing compliance with the proposed licensing system subject to the August 9, 2002, Customs notice of proposed rulemaking. Under this methodology, foreign steel subject to licensing may enter a Customs bonded warehouse or be covered by a temporary importation bond (TIB) without a license; the license would be optional for both the warehouse and TIB entries. Stating that this optional treatment is inconsistent with the purpose of the licensing system, this commenter argued that all foreign steel subject to the licensing requirements should be treated identically, regardless of whether the steel is placed in a bonded facility, covered by a TIB, or admitted into an FTZ, and that this identical treatment should require the steel to be licensed and counted when it is admitted into an FTZ, entered into a bonded warehouse, or entered on a TIB.

Customs response:

As regards the administrative message referred to by this commenter, Customs notes that it was intended only to advise the trade on the system requirements for filing the steel license information (number) when entry filing is effected electronically in the Automated Commercial System (ACS) through the automated broker interface (ABI). The administrative message was issued in recognition of the considerable lead time that is necessary in order to reprogram ABI user software and reflected the best information available at that time from the Department of Commerce regarding the steel import licensing program re-



quirements, that is, the proposals published by Commerce on July 18, 2002.

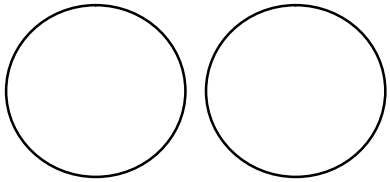
As indicated in the preceding comment discussion regarding FTZs, the primary responsibility for the steel import licensing program rests with the Department of Commerce and, accordingly, Customs has no authority to impose standards that are at variance with the program requirements properly established by Commerce. Customs further notes that, in the final regulations published by Commerce on December 31, 2002, § 360.101(e) provides that import licenses are not required in the case of TIB entries, transportation and exportation (T&E) entries, and entries into a bonded warehouse, and that a license is required at the time of entry summary in the case of a covered steel product that is withdrawn from a bonded warehouse. In view of this regulatory standard, Customs cannot adopt the "identical" treatment principle suggested by this commenter, and the text of § 12.145 set forth in this final rule document has been modified to refer specifically to merchandise "entered, or withdrawn from warehouse for consumption, in the customs territory of the United States" in order to exclude from coverage TIB, T&E, and warehouse entry transactions.

Comment:

A commenter referred to a statement that "[a]ll imports of steel products * * * will be required to obtain a steel import license and provide the license number to U.S. Customs on the entry summary." This commenter raised the issue regarding the point at which a material is considered to be "imported" and suggested that, in the case of warehouse entries, that point should be when the material is withdrawn from the warehouse and a consumption entry is filed and not when the material is offloaded under a warehouse entry and maintained in the bonded warehouse.

Customs response:

The statement referred to by this commenter appeared in the proposed rule document published by the Department of Commerce on July 18, 2002, rather than in the notice of proposed rulemaking published by Customs on August 9, 2002. The statement was not set forth in that document as proposed regulatory text and therefore appears to have been directed to the general thrust of the steel import licensing program. Customs further notes that under the program as developed by Commerce, the mere fact of importation is not controlling as regards the licensing and license number reporting requirements. Rather, as already indicated in this comment discussion, the Department of Commerce proposals and final regulatory texts, as well as the text of § 12.145 as proposed and as set forth in this final rule document, make it clear that those requirements do not arise at the time of entry into a bonded warehouse but rather only upon withdrawal from the warehouse when Customs Form 7501 will be filed.



Comment:

A commenter recommended that the Customs entry number not be a requirement at the time of applying for a license unless it is available at the time of filing. This commenter referred to two situations in which it would not be possible to provide the proper entry number when applying for the license. One situation involves Customs bonded warehouses, where the entry number assigned at the time of arrival in the United States is not the same as the entry number that applies when duty is eventually paid. The other situation involves split shipment situations where a portion of the cargo covered by one invoice or bill of lading is discharged and moved overland separately from the rest of the cargo, with the result that multiple entries will be filed for the merchandise covered by the one invoice or bill of lading.

Customs response:

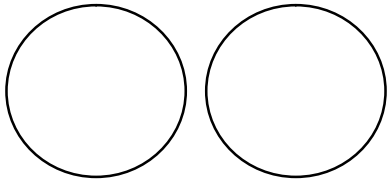
Customs first notes that the observations made by this commenter relate to the license issuance process which is controlled by the Department of Commerce regulations and not by the regulations promulgated by Customs. Moreover, Customs notes that, in the final regulations published by Commerce on December 31, 2002, § 360.103(b) provides that license filers are not required to report a Customs entry number to obtain an import license but are encouraged to do so if the entry number is known at the time of filing for the license. Accordingly, the concern expressed by this commenter has been addressed in the Commerce final regulations.

Comment:

A commenter referred to a statement that "[t]he applicable license number(s) must cover the total quantity of steel entered and should match the information provided on the Customs entry summary." This commenter argued that it would be difficult to meet this requirement in some cases involving warehouse entries. For example, where goods are withdrawn for export to Canada, the inclusion of those quantities on an application for a license at the time of "entry" into the port would have an impact on the validity of the data collected. This commenter also noted the possibility that a warehouse entry could be open for an extended period of time, requiring the government to monitor the open license for months or even years.

Customs response:

The statement referred to by this commenter appeared in the proposed rule document published by the Department of Commerce on July 18, 2002, rather than in the notice of proposed rulemaking published by Customs on August 9, 2002, and this statement was not set forth in that document as proposed regulatory text. A similar statement does appear as regulatory text in the final rule document published by Commerce on December 31, 2002: the last sentence of § 360.101(a)(2) reads "[t]he applicable license(s) must cover the total quantity of steel entered and should cover the same information provided on the Customs entry sum-



mary." This sentence appears in the context of a discussion of when a single license may cover multiple products and when separate licenses for steel entered under a single entry are required, and it immediately follows the statement that "[a]s a result, a single Customs entry may require more than one steel import license." The regulatory text in question thus relates to the scope of the licensing procedure and therefore falls directly under the authority of Commerce rather than that of Customs.

Customs would also suggest that the potential problem outlined by the commenter regarding goods withdrawn from warehouse for shipment to Canada could be avoided by controlling the point at which application for the license is made. In other words, even though under 19 CFR 181.53 goods withdrawn from a U.S. duty-deferral program (such as a Customs bonded warehouse) for exportation to Canada must be treated as entered or withdrawn for consumption, and thus a Customs Form 7501 must be filed as a consequence of that exportation, the potential problem outlined by this commenter could be avoided simply if the importer did not apply for the license when the steel is entered in the warehouse but rather only when it, or any part of it, is withdrawn for shipment to Canada. This approach would also address the "open license" issue raised by this commenter.

Comment:

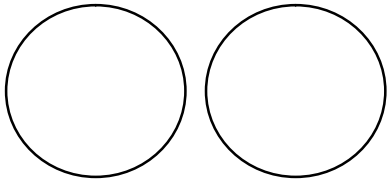
One commenter raised an issue regarding the impact of the proposal on quota monitoring. The commenter specifically asked whether the licenses will play a role in tracking the quota for products excluded from the safeguard action that include a quota mechanism. This commenter suggested that the answer to this question would greatly impact both the timing for filing the license application and what information might need to be included on the application.

Customs response:

Customs is simply responsible for collecting the license number and any related quota or other data required at the time of entry and for providing that data to the Department of Commerce. Responsibility for all other tracking aspects of the data collected lies with the Commerce and therefore is outside the regulatory authority exercised by Customs.

Comment:

A commenter stated that the sole enforcement authority that Customs has regarding the proposed rule is the liquidated damages provision under 19 CFR 113.62. This commenter further argued that since Customs can mitigate liquidated damage claims, Customs must design its mitigation guidelines with respect to steel import licenses to ensure that importers will have a strong incentive to comply with the regulatory requirements. The commenter also referred to the preamble discussion in the August 9, 2002, notice of proposed rulemaking regarding future mitigation guidelines that would include a reduction of liquidated damage claims to $50 for a late filing of the required information



or $100 in the case of a complete failure to file the information. Arguing that these amounts are negligible, the commenter stated that Customs should adopt guidelines similar to those which governed the entry of products from Canada under the 1996 Softwood Lumber Agreement, that is, mitigation to between 25 and 50 percent of the claim, but not less than $500 and not more than $3,000 per entry, and no mitigation if the importer completely failed to provide the required information.

Customs response:

Customs does not agree that the mitigation standards applied to cases involving softwood lumber from Canada are appropriate in the present context. Subject to any changes that may be reflected in any published mitigation guidelines regarding the steel import license program, Customs remains of the opinion that the mitigated amounts reflected in the August 9, 2002, notice of proposed rulemaking are generally appropriate in this context.

CONCLUSION

Based on the final regulations adopted by the Department of Commerce and the analysis of the comments received as set forth above, Customs believes that proposed § 12.145 should be adopted as a final regulation with the changes to the text as discussed above.

EXECUTIVE ORDER 12866

This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

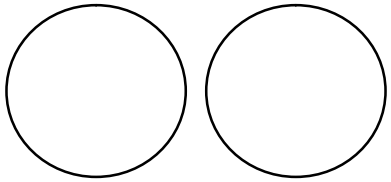
REGULATORY FLEXIBILITY ACT

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that this amendment will not have a significant economic impact on a substantial number of small entities. Customs believes that the amendment, which involves the addition of only one data element to each of two existing required Customs forms, will have a negligible impact on importer operations. Accordingly, the amendment is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

PAPERWORK REDUCTION ACT

The collections of information in the current regulations have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB control number 1515–0065 (Entry summary and continuation sheet) and OMB control number 1515–0086 (Application for foreign-trade zone admission and/or status designation). This rule does not involve any material change to the existing approved information collections.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.



DRAFTING INFORMATION

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 12

Bonds, Customs duties and inspection, Entry of merchandise, Imports, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise.

AMENDMENT TO THE REGULATIONS

For the reasons stated in the preamble, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for Part 12 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * * * *

2. A new center heading and new § 12.145 are added to read as follows:

STEEL PRODUCTS

§ 12.145 Entry or admission of certain steel products.

In any case in which a steel import license number is required to be obtained under regulations promulgated by the U.S. Department of Commerce, that license number must be included:

(a) On the entry summary, Customs Form 7501, or on an electronic equivalent, at the time of filing, in the case of merchandise entered, or withdrawn from warehouse for consumption, in the customs territory of the United States; or

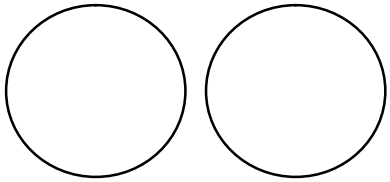
(b) On Customs Form 214, at the time of filing under Part 146 of this chapter, in the case of merchandise admitted into a foreign trade zone.

ROBERT C. BONNER,
Commissioner of Customs.

Approved: February 25, 2003.

TIMOTHY E. SKUD,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, March 21, 2003 (68 FR 13835)]



19 CFR Parts 4, 113 and 178

(T.D. 03–14)

RIN 1515–AC58

DEFERRAL OF DUTY ON LARGE YACHTS IMPORTED FOR SALE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, a proposed amendment to the Customs Regulations to set forth procedures for the deferral of entry filing and duty collection on certain yachts imported for sale at boat shows in the United States. The regulatory amendments reflect a change in the law effected by section 2406 of the Miscellaneous Trade and Technical Corrections Act of 1999.

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT:

Legal matters: Glen Vereb, Office of Regulations and Rulings (202–572–8730).

Operational matters: Peter Flores, Office of Field Operations (202–927–0333).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 2406(a) of the Miscellaneous Trade and Technical Corrections Act of 1999 (the Act, Public Law 106–36, 113 Stat. 127) amended the Tariff Act of 1930 by the addition of a new section 484b (19 U.S.C. 1484b). Section 484b provides that an otherwise dutiable "large yacht" (defined in the section as "a vessel that exceeds 79 feet in length, is used primarily for recreation or pleasure, and has been previously sold by a manufacturer or dealer to a retail consumer") may be imported without the payment of duty if the yacht is imported with the intention to offer for sale at a boat show in the United States. The statute provides generally for the deferral of payment of duty until the yacht is sold but specifies that the duty-deferral period may not exceed 6 months.

In order to qualify for deferral of duty payment at the time of importation of a large yacht, the statute provides that the importer of record must: (1) certify to Customs that the yacht is imported pursuant to section 484b for sale at a boat show in the United States; and (2) post a bond, having a duration of 6 months after the date of importation, in an amount equal to twice the amount of duty on the yacht that would otherwise be imposed under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The statute

further provides that if the yacht is sold within the 6-month period after importation, or if the yacht is neither sold nor exported within the 6-month period after importation, entry must be completed and duty must be deposited with Customs (with the duty calculated at the applicable HTSUS rate based on the value of the yacht at the time of importation) and the required bond will be returned to the importer. The statute further provides that no extensions of the 6-month bond period will be allowed, that any large yacht exported in compliance with the 6-month bond period may not be reentered for purposes of sale at a boat show in the United States (in order to receive duty-deferral benefits) for a period of 3 months after that exportation, and that the Secretary of the Treasury is authorized to make rules and regulations as may be necessary to carry out the provisions of the statute. Finally, under section 2406(b) of the Act, the amendment made by section 2406(a) of the Act applies with respect to any large yacht imported into the United States after July 10, 1999.

In order to reflect the terms of new section 484b, Customs on June 15, 2000, published a notice of proposed rulemaking in the Federal Register (65 FR 37501) to amend the Customs Regulations by the addition of a new § 4.94a (19 CFR 4.94a). In addition, Customs proposed in that document to amend Part 113 of the Customs Regulations (19 CFR Part 113), which sets forth provisions regarding Customs bonds, by the addition of a new § 113.75 and a new Appendix provision setting forth the text of the bond required to be posted by the importer of record under new section 484b.

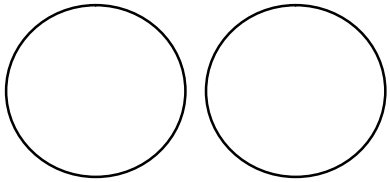
The June 15, 2000, notice of proposed rulemaking invited the submission of public comments on the proposed amendments, and the public comment period closed on August 14, 2000. Two commenters responded to that solicitation of comments. A discussion of their comments follows.

DISCUSSION OF COMMENTS

The two commenters made the same three points which centered on paragraphs (a)(4) and (a)(5) of proposed § 4.94a which set forth two of the conditions that give rise to the bond obligation. Paragraph (a)(4) provides that all subsequent transactions with Customs involving the vessel in question, including any transaction referred to in paragraphs (b) through (d) of § 4.94a, must be carried out in the same port of entry in which the certification was filed and the bond was posted under § 4.94a (paragraphs (b) through (d) concern, respectively, exportation of the yacht within the 6-month bond period, sale of the yacht within the 6-month bond period, and expiration of the bond period). Paragraph (a)(5) provides that the vessel in question will not be eligible for issuance of a cruising license under § 4.94.

Comment:

With regard to paragraph (a)(4), the commenters made the point that in matters involving the sale of large yachts of the type under consideration, there might often be protracted negotiations which could continue for weeks or even months after the conclusion of the actual boat show



at which an offer of sale was made. They stated that the final regulations should make provision for that type of eventuality by specifically providing that negotiations are permitted to continue with respect to any person who viewed a yacht at a boat show, up to the expiration of the 6-month bond period.

Customs Response:

Customs does not read either the statute or the language of the proposed regulations as precluding the continuation or conclusion of negotiations following a boat show so long as they do not continue beyond the expiration date of the bond. The statute merely provides that at the time of importation the importer of record must certify to Customs that the vessel is imported for sale at a yacht show and must post a bond of 6 months duration. Customs interprets the law to provide that so long as the importation is in pursuance of showing and offering a qualifying vessel for sale at a boat show, a 6-month period is provided during which a sale must be completed. Customs in this final rule document has added language to § 4.94a(c) and (d) to expressly refer to completion of the sale. A sale is completed when title passes to the new owner. The alternatives to this are that either the vessel must be exported or, once the bond expires, the entry process must be completed.

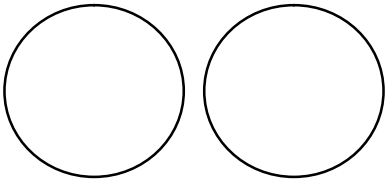
On a related matter not raised in the comments, Customs notes that whereas the prescribed bond period is 6 months and may not be extended, the obligations imposed on the importer under the statute and the regulatory text include actions (that is, advising Customs within 30 days if the yacht is exported or completing the entry within 15 days if the yacht is sold or is neither sold nor exported within that 6-month period) that may be completed after expiration of the bond period. In order to ensure that there is an appropriate enforcement mechanism under the bond covering all obligations under the statute, including those that may lawfully be met after the bond period has expired, the terms of the bond set forth in Appendix C to Part 113 have been modified to include a reference to a claim for liquidated damages for a failure to advise Customs of an exportation or to complete the entry unless either or those actions is taken within the prescribed time limits.

Comment:

Also with regard to paragraph (a)(4), the commenters stated that limited advertising should be allowed when a yacht is imported under the subject program, and they suggested that notice may be required that the vessel is "not available for boarding" during the 6-month period of bond coverage except at a boat show.

Customs Response:

The commenters appear to be arguing, at least in part, against the first point they raised with respect to the continuation of negotiations. Among the mentioned activities which might ensue during after-show negotiations are sea trials during which boarding surely would be required.



Again, Customs does not find either in the new law or in the proposed regulations any limiting language which would preclude advertising a yacht imported for the stated limited purposes. Protection of the revenue is assured by virtue of the statutory bond requirement. If Customs determines that the certification of the importer of record is not honored in that the vessel was not in fact imported for sale at a boat show (such as, upon investigation, there being no evidence that the boat was shown and made available to potential buyers at a boat show), in addition to possible penalty action, a demand could be made against the bond. Customs finds no need for additional regulatory language in this regard.

Comment:

Finally, the commenters referred to the language of paragraph (a)(5) and pointed out that boat shows take place in more than one location and within the jurisdiction of different Customs ports in South Florida. They noted that a typical boat show does not last longer than two weeks and that the law does not restrict the number of shows at which a vessel may be offered for sale during the 6-month bond period. They further noted that the proposed regulation, while making clear that the vessels in question may not obtain cruising licenses, is silent with respect to whether those vessels may be granted permits to proceed between ports in the United States. The commenters urged Customs to add language to the regulations stating that the vessels under consideration may obtain a "permit to proceed."

Customs Response:

The language relating to cruising licenses was included in the proposed regulation because the terms of a cruising license specifically prohibit a licensed vessel from being brought into the United States for sale or charter to a resident of the United States, or from being so offered during the pendency of the license. A cruising license is a mere accommodation available to certain vessels which exempts them from the necessity to enter and clear at U.S. ports. Possession of a license is not necessary in order for a pleasure vessel to travel between ports of the United States. It was not the intention of Customs to suggest that a restriction would be imposed upon vessel movement. It would merely be necessary that vessels covered by § 4.94a would have to comply with the normal requirements regarding vessel entry and clearance when traversing U.S. ports. In order to clarify this issue, Customs in this final rule document has added the words "and must comply with the laws respecting vessel entry and clearance when moving between ports of entry during the 6-month bond period prescribed under this section" at the end of paragraph (a)(5) of § 4.94a.

CONCLUSION

Accordingly, based on the comments received and the analysis of those comments as set forth above, Customs believes that the proposed regulatory amendments should be adopted as a final rule with the

changes discussed above, together with one editorial change, as set forth below. This document also includes an appropriate update of the list of information collection approvals contained in § 178.2 of the Customs Regulations (19 CFR 178.2).

REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. The amendments directly reflect a statutory provision that accords procedural and financial benefits to members of the general public who import large yachts for purposes of sale. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Furthermore, this document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

PAPERWORK REDUCTION ACT

The collection of information contained in this final rule has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1515–0223. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

The collection of information in this document is in § 4.94a. This information is required and will be used to effect the deferral of duty collection on certain pleasure vessels, in order to ensure enforcement of the Customs and related laws and the protection of the revenue. The likely respondents are owners of large pleasure vessels.

The estimated average annual burden associated with this collection of information is 1 hour per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Information Services Group, Office of Finance, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229, and to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

LIST OF SUBJECTS

19 CFR Part 4

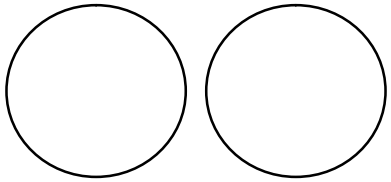
Customs duties and inspection, Entry, Imports, Reporting and recordkeeping requirements, Vessels, Yachts.

19 CFR Part 113

Bonds, Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Surety bonds, Vessels.

19 CFR Part 178

Administrative practice and procedure, Reporting and recordkeeping requirements.



AMENDMENTS TO THE REGULATIONS

Accordingly, for the reasons stated in the preamble, Parts 4, 113 and 178, Customs Regulations (19 CFR Parts 4, 113 and 178), are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for Part 4 continues to read, and a specific authority citation for § 4.94a is added to read, as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91.

* * * * * * *

Section 4.94a also issued under 19 U.S.C. 1484b;

* * * * * * *

2. A new § 4.94a is added to read as follows:

§ 4.94a Large yachts imported for sale.

(a) *General*. An otherwise dutiable vessel used primarily for recreation or pleasure and exceeding 79 feet in length that has been previously sold by a manufacturer or dealer to a retail consumer and that is imported with the intention to offer for sale at a boat show in the United States may qualify at the time of importation for a deferral of entry completion and deposit of duty. The following requirements and conditions will apply in connection with a deferral of entry completion and duty deposit under this section:

(1) The importer of record must certify to Customs in writing that the vessel is being imported pursuant to 19 U.S.C. 1484b for sale at a boat show in the United States;

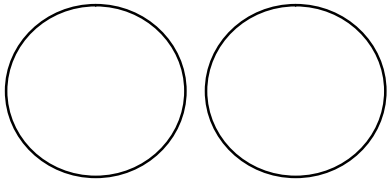
(2) The certification referred to in paragraph (a)(1) of this section must be accompanied by the posting of a single entry bond containing the terms and conditions set forth in appendix C of part 113 of this chapter. The bond will have a duration of 6 months after the date of importation of the vessel, and no extensions of the bond period will be allowed;

(3) The filing of the certification and the posting of the bond in accordance with this section will permit Customs to determine whether the vessel may be released;

(4) All subsequent transactions with Customs involving the vessel in question, including any transaction referred to in paragraphs (b) through (d) of this section, must be carried out in the same port of entry in which the certification was filed and the bond was posted under this section; and

(5) The vessel in question will not be eligible for issuance of a cruising license under § 4.94 and must comply with the laws respecting vessel entry and clearance when moving between ports of entry during the 6-month bond period prescribed under this section.

(b) *Exportation within 6-month period*. If a vessel for which entry completion and duty payment are deferred under paragraph (a) of this section is not sold but is exported within the 6-month bond period speci-



fied in paragraph (a)(2) of this section, the importer of record must inform Customs in writing of that fact within 30 calendar days after the date of exportation. The bond posted with Customs will be returned to the importer of record and no entry completion and duty payment will be required. The exported vessel will be precluded from reentry under the terms of paragraph (a) of this section for a period of 3 months after the date of exportation.

(c) *Sale within 6-month period*. If the sale of a vessel for which entry completion and duty payment are deferred under paragraph (a) of this section is completed within the 6-month bond period specified in paragraph (a)(2) of this section, the importer of record within 15 calendar days after completion of the sale must complete the entry by filing an Entry Summary (Customs Form 7501) and must deposit the appropriate duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the vessel at the time of importation). Upon entry completion and deposit of duty under this paragraph, the bond posted with Customs will be returned to the importer of record.

(d) *Expiration of bond period*. If the 6-month bond period specified in paragraph (a)(2) of this section expires without either the completed sale or the exportation of a vessel for which entry completion and duty payment are deferred under paragraph (a) of this section, the importer of record within 15 calendar days after expiration of that 6-month period must complete the entry by filing an Entry Summary (Customs Form 7501) and must deposit the appropriate duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the vessel at the time of importation). Upon entry completion and deposit of duty under this paragraph, the bond posted with Customs will be returned to the importer of record, and a new bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, may be required by the appropriate port director.

PART 113—CUSTOMS BONDS

1. The general authority citation for Part 113 continues to read, and a specific authority citation for § 113.75 and Appendix C is added to read, as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

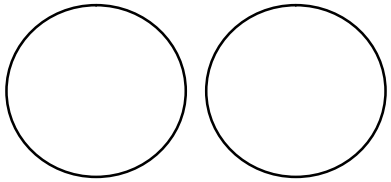
* * * * * * *

Section 113.75 and Appendix C also issued under 19 U.S.C. 1484b.

2. Part 113 is amended by adding a new § 113.75 to read as follows:

§ 113.75 Bond conditions for deferral of duty on large yachts imported for sale at United States boat shows.

A bond for the deferral of entry completion and duty deposit pursuant to 19 U.S.C. 1484b for a dutiable large yacht imported for sale at a United States boat show must conform to the terms of appendix C to this part.



The bond must be filed in accordance with the provisions set forth in § 4.94a of this chapter.

3. Part 113 is amended by adding at the end a new appendix C to read as follows:

APPENDIX C TO PART 113—BOND FOR DEFERRAL OF DUTY ON LARGE YACHTS IMPORTED FOR SALE AT UNITED STATES BOAT SHOWS

BOND FOR DEFERRAL OF DUTY ON LARGE YACHTS IMPORTED FOR SALE AT UNITED STATES BOAT SHOWS

_____, as principal, and _____, as surety, are held and firmly bound to the UNITED STATES OF AMERICA in the sum of _____ dollars ($_____), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these conditions.

Pursuant to the provisions of 19 U.S.C. 1484b, the principal has imported at the port of _____ a dutiable large yacht (exceeding 79 feet in length, used primarily for recreation or pleasure, and previously sold by a manufacturer or dealer to a consumer) identified as _____ for sale at a boat show in the United States with deferral of entry completion and duty deposit and has executed this obligation as a condition precedent to that deferral.

A failure to inform Customs in writing of an exportation, or to complete the required entry, within the 6-month bond period will give rise to a claim for liquidated damages unless the principal informs Customs of the exportation or completes the entry within the time limits prescribed in 19 CFR 4.94a. If the principal fails to comply with any condition of this obligation, which includes compliance with any requirement or condition set forth in 19 U.S.C. 1484b or 19 CFR 4.94a, the principal and surety jointly and severally agree to pay to Customs an amount of liquidated damages equal to twice the amount of duty on the large yacht that would otherwise be imposed under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States. For purposes of this paragraph, the term "duty" includes any duties, taxes, fees and charges imposed by law.

The principal will exonerate and hold harmless the United States and its officers from or on account of any risk, loss, or expense of any kind or description connected with or arising from the failure to store and deliver the large yacht as required, as well as from any loss or damage resulting from fraud or negligence on the part of any officer, agent, or other person employed by the principal.

WITNESS our hands and seals this _____ day of _____ (month), _____ (Year).

_____		_____	[SEAL]
(Name)	(Address)	(Principal)	
_____		_____	[SEAL]
(Name)	(Address)	(Surety)	

print order no. 40104, date set 3/24/2003, time set 9:00

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the *_____ of the corporation named as principal in the attached bond; that _____, who signed the bond on behalf of the principal, was then _____ of that corporation; that I know his signature, and his signature to the bond is genuine; and that the bond was duly signed, sealed, and attested for and in behalf of the corporation by authority to its governing body.

_____[CORPORATE SEAL]

(To be used when no power of attorney has been filed with the port director of customs.)
** May be executed by the secretary, assistant secretary, or other officer of the corporation.*

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq*.

2. In § 178.2, the table is amended by adding a new listing for § 4.94a in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	*Description*	*OMB Control No.*
* * *	* * *	* *
§ 4.94a	Deferral of duty on large yachts imported for sale.	1515–0223
* * *	* * *	* *

ROBERT C. BONNER,
Commissioner of Customs.

Approved: February 25, 2003.
TIMOTHY E. SKUD,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, March 20, 2003 (68 FR 13623)]

print order no. 40104, date set 3/24/2003, time set 9:00

19 CFR Part 10

(T.D. 03–15)

RIN 1515–AD20

TRADE BENEFITS UNDER THE AFRICAN GROWTH AND OPPORTUNITY ACT

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document sets forth interim amendments to those provisions of the Customs Regulations that implement the trade benefits for sub-Saharan African countries contained in the African Growth and Opportunity Act (the AGOA). The interim regulatory amendments involve the textile and apparel provisions of the AGOA and in part reflect changes made to those statutory provisions by section 3108 of the Trade Act of 2002. The specific statutory changes addressed in this document involve the amendment of several provisions to clarify the status of apparel articles assembled from knit-to-shape components, the inclusion of a specific reference to apparel articles formed on seamless knitting machines, a change of the wool fiber diameter specified in one provision, and the addition of a new provision to cover additional production scenarios involving the United States and AGOA beneficiary countries. This document also includes a number of other changes to the AGOA implementing regulations to clarify a number of issues that arose after their original publication.

DATES: Interim rule effective March 21, 2003; comments must be submitted by May 20, 2003.

ADDRESSES: Written comments are to be addressed to the U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs Service, 799 9th Street N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Operational issues: Robert Abels, Office of Field Operations (202–927–1959).

Legal issues: Cynthia Reese, Office of Regulations and Rulings (202–572–8790).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The African Growth and Opportunity Act

The African Growth and Opportunity Act (the AGOA, Title I of Public Law 106–200, 114 Stat. 251) authorizes the President to extend certain

trade benefits to designated countries in sub-Saharan Africa. Section 112 of the AGOA, codified at 19 U.S.C. 3721, provides for the preferential treatment of certain textile and apparel articles from designated beneficiary countries. The provisions of section 112 of the AGOA are reflected for tariff purposes in Subchapter XIX, Chapter 98, Harmonized Tariff Schedule of the United States (HTSUS).

Sections 10.211 through 10.217 of the Customs Regulations (19 CFR 10.211 through 10.217) set forth the legal requirements and procedures that apply for purposes of obtaining preferential treatment on textile and apparel articles pursuant to section 112 of the AGOA. Those regulations were adopted on an interim basis in T.D. 00–67, published in the Federal Register (65 FR 59668) on October 5, 2000, and took effect on October 1, 2000. Action to adopt those interim regulations as a final rule was withheld pending anticipated action on the part of Congress to amend the underlying statutory provisions.

Trade Act of 2002 amendments

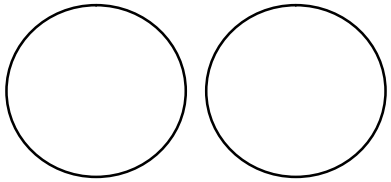
On August 6, 2002, the President signed into law the Trade Act of 2002 (the "Act"), Public Law 107–210, 116 Stat. 933. Sections 3108(a) and (b) of the Act amended section 112(b) of the AGOA (19 U.S.C. 3721(b)) which specifies the textile and apparel articles to which preferential treatment applies under the AGOA. The amendments made by section 3108(a) of the Act to section 112(b) of the AGOA were as follows:

1. The article description in the introductory text of paragraph (b)(1) was amended to refer to apparel articles "sewn or otherwise" assembled and to include a reference to articles assembled "from components knit-to-shape." The amended statutory text reads as follows:

> Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States) that are * * *.

2. The article description in paragraph (b)(2) was reorganized in order to accommodate the addition of references to apparel articles "sewn or otherwise" assembled and to apparel articles assembled "from components knit-to-shape in the United States from yarns wholly formed in the United States." The amended statutory text reads as follows:

> Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Har-



monized Tariff Schedule of the United States and are wholly formed in the United States).

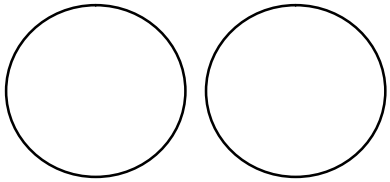
3. The article description in the introductory text of paragraph (b)(3) was amended by removing the words "and cut" after "wholly formed" within the parenthetical phrase, by adding a reference to articles assembled "from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries," and by adding a reference to "apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries." The amended statutory text reads as follows:

> Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries (including fabrics not formed from yarns, if such fabrics are classified under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in one or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, subject to the following:

4. The article description in paragraph (b)(3)(B)(i), which sets forth a special rule for lesser developed beneficiary sub-Saharan African countries, was amended to refer to preferential treatment "under this paragraph," to refer to apparel articles wholly assembled "or knit-to-shape and wholly assembled, or both," and to refer to preferential treatment regardless of the country of origin of the fabric "or the yarn." The amended statutory text reads as follows:

> Subject to subparagraph (A), preferential treatment under this paragraph shall be extended through September 30, 2004, for apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric or the yarn used to make such articles.

5. The definition of "lesser developed beneficiary sub-Saharan African country" in paragraph (b)(3)(B)(ii) was amended by replacing the reference to the World Bank with a reference to the International Bank for Reconstruction and Development and by the addition of separate subparagraph references to Botswana and Namibia. The latter amendment in effect removes those two countries from the maximum per capita gross national product standard that applies to other countries



covered by the definition. Neither of these changes affects the AGOA implementing regulations.

6. In paragraph (b)(4)(B), the reference to wool measuring "18.5" microns in diameter or finer was amended to read "21.5" microns in diameter or finer.

7. Finally, a new paragraph (b)(7) was added to cover hybrid operations, that is, combinations of various production scenarios described in other paragraphs under section 112(b). This new provision reads as follows:

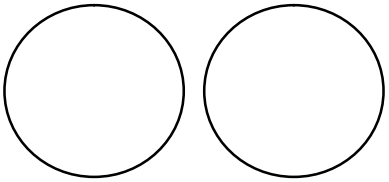
> Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States).

Section 3108(b) of the Act amended section 112(b) of the AGOA by increasing the applicable percentage used for determining the quantitative limits that apply to apparel articles entitled to preferential treatment under paragraph (b)(3). This change does not affect the AGOA implementing regulations.

On November 13, 2002, the President signed Proclamation 7626 (published in the Federal Register at 67 FR 69459 on November 18, 2002) which, among other things, in Annex II sets forth modifications to the HTSUS to implement the changes to section 112(b) of the AGOA made by section 3108 of the Act. The Proclamation provides that the HTSUS modifications that implement the changes made by section 3108(a) of the Act are effective with respect to eligible articles entered, or withdrawn from warehouse for consumption, on or after August 6, 2002. The Proclamation further provides that the HTSUS modifications that implement the change to the applicable quantitative limit percentage made by section 3108(b) of the Act are effective with respect to eligible articles entered, or withdrawn from warehouse for consumption, on or after October 1, 2002.

Changes to the interim regulatory texts

As a consequence of the statutory changes described above and as a result of the modifications to the HTSUS made by Proclamation 7626, the interim AGOA implementing regulations published in T.D. 00–67 no longer fully reflect the current state of the law. In addition, following publication of those interim regulations, a number of other issues came to the attention of Customs that warrant clarification in the AGOA implementing regulations. Accordingly, this document sets forth interim amendments to the AGOA implementing regulations, with provision



for public comment on those changes, to reflect the amendments to the statute mentioned above and to clarify or otherwise improve those previously published regulations. It is the intention of Customs, after the close of the public comment period prescribed in this document, to publish one document that (1) addresses both the comments submitted on the interim regulations published in T.D. 00–67 and the comments submitted on the interim regulations set forth in this document and (2) adopts, as a final rule, the AGOA implementing regulations contained in the two interim rule documents with any additional changes as may be appropriate based on issues raised in the submitted public comments. The interim regulatory changes contained in this document are discussed below.

Amendments to reflect the statutory changes

The interim regulatory amendments set forth in this document that are in response to the statutory changes made to section 112(b) of the AGOA by section 3108 of the Act are as follows:

1. In § 10.212, a new definition covering knit-to-shape components is added to reflect the inclusion of references to "components knit-to-shape" in paragraphs (b)(1), (b)(2), (b)(3), and (b)(7) of the statute. Also, as a consequence of the addition of this new definition, the interim definition of "knit-to-shape" is recast as a definition covering knit-to-shape articles but without any other change to the wording of the definition.

2. In § 10.212, a new definition of "wholly formed on seamless knitting machines" is added to clarify the meaning of this expression as used in the amended text of paragraph (b)(3) of the statute (§ 10.213(a)(4) of the regulatory texts).

3. In § 10.213, paragraphs (a)(1) and (a)(2) are revised to conform to the amendment of the product description in the introductory text of paragraph (b)(1) of the statute.

4. In § 10.213, paragraph (a)(3) is revised to conform to the amendment of the product description in paragraph (b)(2) of the statute.

5. In § 10.213, paragraph (a)(4) is revised to conform to the amendment of the product description in the introductory text of paragraph (b)(3) of the statute.

6. In § 10.213, paragraph (a)(5) is revised to conform to the amendment of the product description that applies to lesser developed beneficiary countries in paragraph (b)(3)(B)(i) of the statute.

7. In § 10.213, the reference to "18.5" microns in paragraph (a)(7) is changed to read "21.5" microns to reflect the amendment made to paragraph (b)(4)(B) of the statute.

8. In § 10.213, a new paragraph (a)(11) is added to cover the hybrid operations described in new paragraph (b)(7) of the statute.

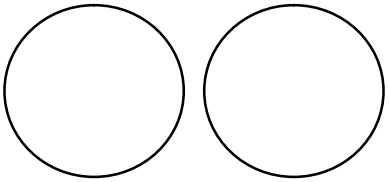
9. Finally, the preference group descriptions on the Certificate of Origin set forth under paragraph (b) of § 10.214 are revised to reflect the amended product descriptions in the statute and to include a reference to articles covered by new paragraph (b)(7) of the statute and paragraph (a)(11) of § 10.213.

Other amendments

In addition to the regulatory amendments described above that result from the changes made to section 112(b) of the AGOA by section 3108 of the Act, Customs has included in this document a number of other changes to the interim regulations published in T.D. 00–67. These additional changes, which are intended to clarify or otherwise improve the interim regulatory texts, are as follows:

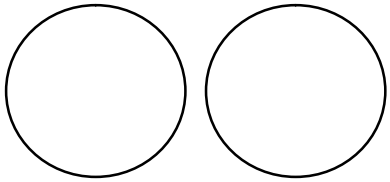
1. In the definition of "wholly formed" as it relates to yarn in the interim regulations, Customs failed to provide for textile strip of headings 5404 and 5405, HTSUS. Textile strip of headings 5404 and 5405, HTSUS, may be formed by extrusion, similar to the formation of filaments, or may be formed by slitting plastic film or sheet. With regard to what may be considered to be a yarn, Customs notes that "yarn" is defined in the *Dictionary of Fiber & Textile Technology* (KoSa, 1999), at 222, as follows: "A generic term for a continuous strand of textile fibers, filaments, or material in a form suitable for knitting, weaving, or otherwise intertwining to form a textile fabric. Yarn occurs in the following forms: (1) a number of fibers twisted together (spun yarn), (2) a number of filaments laid together without twist (a zero-twist yarn), (3) a number of filaments laid together with a degree of twist, (4) a single filament with or without twist (a monofilament), or (5) a narrow strip of material, such as paper, plastic film, or metal foil, with or without twist, intended for use in a textile construction." The identical definition is found in *Dictionary of Fiber & Textile Technology* (Hoechst Celanese, 1990) at 181. There is nothing to indicate that Congress intended textile strip to be excluded from use in the AGOA, and Customs believes the term "yarn" may be understood to include that type of material. Accordingly, this document revises the § 10.212 definition of "wholly formed" as it relates to yarn to include a reference to textile strip. In addition, this document divides that definition of "wholly formed" into two definitions, one with reference to wholly formed fabrics and the other with reference to wholly formed yarns (and the latter definition is further corrected by removing the words "and thread" to reflect the fact that the statute and regulations do not use the word "wholly" in the context of thread formation); Customs believes that this approach will better clarify that there are distinct contexts in which "wholly formed" is used in the statute and regulations, which now also include the new seamless knitting machine context referred to above. Finally, at the end of the "wholly formed fabrics" definition, the words "in a single country" are replaced by "in the United States or in one or more beneficiary countries" in order to reflect the fact that fabric may be wholly formed in more than one beneficiary country in the case of articles covered by section 112(b)(3) of the AGOA and § 10.213(a)(4) of the regulatory texts.

2. As noted above, quantitative limits apply for preferential treatment purposes in the case of articles covered by section 112(b)(3) of the AGOA which is reflected in § 10.213(a)(4) and (5) of the regulatory texts. Those quantitative limit provisions are set forth in U.S. Note 2 to Subchapter



XIX of Chapter 98, HTSUS, which requires the Committee for the Implementation of Textile Agreements to publish in the Federal Register the applicable aggregate quantity of imports allowed for each 12-month period. Customs believes that it would be helpful for a reader of the regulatory texts to know that those quantitative limits apply to the subject products. Accordingly, revised paragraphs (a)(4) and (a)(5) of § 10.213 as set forth in this document also include appropriate references to the quantitative limit provisions of U.S. Note 2 to Subchapter XIX of Chapter 98, HTSUS.

3. Section 112(b)(5)(A) of the AGOA, which is reflected in § 10.213(a)(8) of the regulatory texts, covers apparel articles that are constructed of either fabrics or yarns that are considered to be in "short supply" for purposes of Annex 401 of the NAFTA (that is, the fabrics or yarns are not required to be originating within the meaning of the NAFTA, if those fabrics or yarns undergo the specified tariff shift for that article and that article meets all other applicable requirements for an originating good). For example, sweaters of wool classified under subheading 6110.11.00 of the HTSUS that are knit to shape in a NAFTA country from 40 percent non-originating silk yarn and 60 percent originating wool yarn may qualify as originating goods because a tariff shift from silk yarn is allowed by the applicable tariff shift rule, but sweaters knit to shape from 40 percent originating silk yarn and 60 percent non-originating wool yarn will not qualify as originating goods because the non-originating wool yarn is classified under a heading (5106) from which a tariff shift is not allowed. Customs notes that the corresponding HTSUS provision (subheading 9819.11.21) contains a more explanatory description of the Annex 401 short supply rule; the regulatory text is revised in this document to conform to the approach used in the HTSUS provision. Customs further notes that the same short supply language appears within the textile provisions of the United States-Caribbean Basin Trade Partnership Act (the CBTPA) and the Andean Trade Promotion and Drug Eradication Act (the ATPDEA), and in those contexts the short supply provision can only be interpreted to not apply to brassieres classifiable under subheading 6212.10 of the HTSUS because applying it would render meaningless the extensive provisions on brassieres in those Acts. Consequently, Customs has decided that the short supply provision does not apply to brassieres under the CBTPA and ATPDEA and that the same interpretation must apply for purposes of the AGOA. Customs notes in this regard that the NAFTA Annex 401 rule for articles classified in subheading 6212.10 of the HTSUS requires only the performance of certain specified production processes (that is, "both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the NAFTA parties") and includes no requirements regarding the source of the fabrics or yarns. There is little logic in applying the short supply provision to a product where the NAFTA rule makes no mention of excluded materials. Thus, Customs believes that brassieres of subheading 6212.10, HTSUS, are not covered by section



112(b)(5)(A) of the AGOA and § 10.213(a)(8) of the regulations. The revised text of § 10.213(a)(8) set forth in this document therefore also includes appropriate exclusionary language to reflect this interpretation.

4. With reference to the findings, trimmings and interlinings provisions under § 10.213(b)(1), Customs believes that it would be useful to specify in the regulatory texts an appropriate basis for determining the "cost" of the components and the "value" of the findings and trimmings and interlinings. Customs further believes that the standard should be based on the regulations that apply to components and materials under subheading 9802.00.80, HTSUS (in particular, 19 CFR 10.17), and under the GSP (in particular, 19 CFR 10.177(c)). Accordingly, this document adds a new subparagraph (2) to § 10.213(b) to address this point and redesignates former subparagraph (2) of the interim regulatory texts as subparagraph (3).

5. In addition to the modification of the preference group descriptions on the Textile Certificate of Origin set forth under § 10.214(b) as discussed above, the format of the Certificate is modified and some of the blocks are moved and renumbered, solely for purposes of clarity. The instructions for completion of the Certificate in paragraph (c) of § 10.214 are also revised to reflect the changes made to the Certificate and to provide additional clarification regarding its completion, including provision for signature by an exporter's authorized agent having knowledge of the relevant facts.

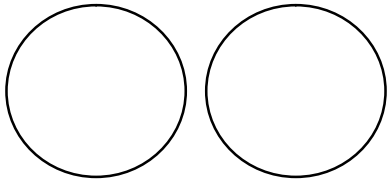
6. In the case of articles described in § 10.213(a)(1), interim § 10.215(a) provided for the inclusion of the symbol "D" as a prefix to the applicable Chapter 98, HTSUS, subheading (that is subheading 9802.00.80) as the means for making the required written declaration on the entry documentation. This procedure was adopted because, contrary to the case of the other articles described in § 10.213(a), no unique HTSUS subheading had been identified for the articles covered by § 10.213(a)(1) when the interim regulations were published. A unique HTSUS subheading now exists for those articles (that is, subheading 9802.00.8042). Accordingly, § 10.215(a) is revised in this document to prescribe the same entry documentation declaration procedure for all articles described in § 10.213, that is, inclusion of the HTSUS Chapter 98 subheading under which the article is classified.

7. In § 10.216(b)(4)(ii), the cross-reference to "§ 10.214(c)(14)" is changed to read "§ 10.214(c)(15)" to reflect the addition of the provision regarding signature by the exporter or the exporter's authorized agent.

8. Finally, in § 10.217(a)(2) and (a)(3), the words "in a beneficiary country" are removed in recognition of the fact that verification of documentation and other information regarding country of origin and verification of evidence regarding the use of U.S. materials might take place outside a beneficiary country, for example, within the United States.

COMMENTS

Before adopting these interim regulations as a final rule, consideration will be given to any written comments timely submitted to Cus-



toms, including comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.5 of the Treasury Department Regulations (31 CFR 1.5), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, U.S. Customs Service, 799 9th Street, N.W., Washington, D.C. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

Inapplicability of Notice and Delayed Effective Date Requirements and The Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that prior public notice and comment procedures on these regulations are unnecessary and contrary to the public interest. The regulatory changes provide trade benefits to the importing public, in some cases implement direct statutory mandates, and are necessary to carry out the preferential treatment and United States tariff changes proclaimed by the President under the African Growth and Opportunity Act. For the same reasons, pursuant to the provisions of 5 U.S.C. 553(d)(1) and (3), Customs finds that there is good cause for dispensing with a delayed effective date. Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.) do not apply.

Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this interim rule has previously been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*.) under OMB control number 1515–0224.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 10

Assembly, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Reporting and recordkeeping requirements, Trade agreements.

print order no. 40104, date set 3/24/2003, time set 9:00

AMENDMENTS TO THE REGULATIONS

For the reasons set forth in the preamble, Part 10 of the Customs Regulations (19 CFR Part 10) is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for Part 10 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * * * *

Sections 10.211 through 10.217 also issued under 19 U.S.C. 3721;

* * * * * * *

2. In § 10.212, the definition of "knit-to-shape" and the definition of "wholly formed" are removed and new definitions of "knit-to-shape articles" and "knit-to-shape components" and "wholly formed fabrics" and "wholly formed on seamless knitting machines" and "wholly formed yarns" are added in appropriate alphabetical order to read as follows:

§ 10.212 Definitions.

* * * * * * *

Knit-to-shape articles. "Knit-to-shape," when used with reference to sweaters or other apparel articles, means any apparel article of which 50 percent or more of the exterior surface area is formed by major parts that have been knitted or crocheted directly to the shape used in the apparel article, with no consideration being given to patch pockets, appliques, or the like. Minor cutting, trimming, or sewing of those major parts will not affect the determination of whether an apparel article is "knit-to-shape."

Knit-to-shape components. "Knit-to-shape," when used with reference to textile components, means components that are knitted or crocheted from a yarn directly to a specific shape containing a self-start edge. Minor cutting or trimming will not affect the determination of whether a component is "knit-to-shape."

* * * * * * *

Wholly formed fabrics. "Wholly formed," when used with reference to fabric(s), means that all of the production processes, starting with polymers, fibers, filaments, textile strips, yarns, twine, cordage, rope, or strips of fabric and ending with a fabric by a weaving, knitting, needling, tufting, felting, entangling or other process, took place in the United States or in one or more beneficiary countries.

Wholly formed on seamless knitting machines. "Wholly formed on seamless knitting machines," when used to describe apparel articles, has reference to a process that created a knit-to-shape apparel article by

feeding yarn(s) into a knitting machine to result in that article. When taken from the knitting machine, an apparel article created by this process either is in its final form or requires only minor cutting or trimming or the addition of minor components or parts such as patch pockets, appliques, capping, or elastic strip.

Wholly formed yarns. "Wholly formed," when used with reference to yarns, means that all of the production processes, starting with the extrusion of filament, strip, film, or sheet and including slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with a yarn or plied yarn, took place in a single country.

3. In § 10.213:

a. Paragraphs (a)(1) through (a)(5) are revised;

b. Paragraph (a)(7) is amended by removing the words "18.5 microns" and adding, in their place, the words "21.5 microns";

c. Paragraph (a)(8) is revised;

d. A new paragraph (a)(11) is added; and

e. Paragraph (b)(2) is redesignated as paragraph (b)(3) and a new paragraph (b)(2) is added.

The revisions and additions read as follows:

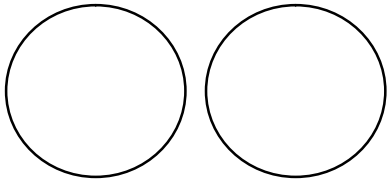
§ 10.213 Articles eligible for preferential treatment.

(a) * * *

(1) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under subheading 9802.00.80 of the HTSUS;

(2) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under Chapter 61 or 62 of the HTSUS, if, after that assembly, the articles would have qualified for entry under subheading 9802.00.80 of the HTSUS but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes in a beneficiary country;

(3) Apparel articles sewn or otherwise assembled in one or more beneficiary countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if



those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in the United States).

(4) Apparel articles wholly assembled in one or more beneficiary countries from fabric wholly formed in one or more beneficiary countries from yarns originating either in the United States or one or more beneficiary countries (including fabrics not formed from yarns, if those fabrics are classified under heading 5602 or 5603 of the HTSUS and are wholly formed in one or more beneficiary countries), or from components knit-to-shape in one or more beneficiary countries from yarns originating either in the United States or in one or more beneficiary countries, or apparel articles wholly formed on seamless knitting machines in a beneficiary country from yarns originating either in the United States or in one or more beneficiary countries, subject to the applicable quantitative limit published in the FEDERAL REGISTER pursuant to U.S. Note 2, Subchapter XIX, Chapter 98, HTSUS;

(5) Apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary countries regardless of the country of origin of the fabric or the yarn used to make the articles, subject to the applicable quantitative limit published in the FEDERAL REGISTER pursuant to U.S. Note 2, Subchapter XIX, Chapter 98, HTSUS;

* * * * * * *

(8) Apparel articles, other than brassieres classifiable under subheading 6212.10, HTSUS, that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries, from fabrics or yarn that is not formed in the United States or a beneficiary country, provided that apparel articles of those fabrics or yarn would be considered an originating good under General Note 12(t), HTSUS, if the apparel articles had been imported directly from Canada or Mexico;

* * * * * * *

(11) Apparel articles sewn or otherwise assembled in one or more beneficiary countries with thread formed in the United States:

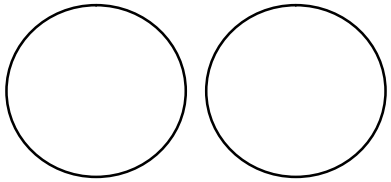
(i) From components cut in the United States and in one or more beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS);

(ii) From components knit-to-shape in the United States and one or more beneficiary countries from yarns wholly formed in the United States; or

(iii) From any combination of two or more of the cutting or knitting-to-shape operations described in paragraph (a)(11)(i) or paragraph (a)(11)(ii) of this section.

(b) * * *

(2) *"Cost" and "value" defined*. The "cost" of components and the "value" of findings and trimmings or interlinings referred to in paragraph (b)(1) of this section means:



(i) The price of the components, findings and trimmings, or interlinings when last purchased, f.o.b. port of exportation, as set out in the invoice or other commercial documents, or, if the price is other than f.o.b. port of exportation:

(A) The price as set out in the invoice or other commercial documents adjusted to arrive at an f.o.b. port of exportation price; or

(B) If no exportation to a beneficiary country is involved, the price as set out in the invoice or other commercial documents, less the freight, insurance, packing and other costs incurred in transporting the components, findings and trimmings, or interlinings to the place of production if included in that price; or

(ii) If the price cannot be determined under paragraph (b)(2)(i) of this section or if Customs finds that price to be unreasonable, all reasonable expenses incurred in the growth, production, manufacture, or other processing of the components, findings and trimmings, or interlinings, including the cost or value of materials and general expenses, plus a reasonable amount for profit, and the freight, insurance, packing, and other costs, if any, incurred in transporting the components, findings and trimmings, or interlinings to the port of exportation.

* * * * * * *

4. In § 10.214, paragraphs (b) and (c) are revised to reads as follows:

§ 10.214 Certificate of Origin.

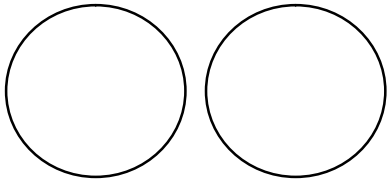
* * * * * * *

(b) *Form of Certificate*. The Certificate of Origin referred to in paragraph (a) of this section must be in the following format:

AFRICAN GROWTH AND OPPORTUNITY ACT
TEXTILE CERTIFICATE OF ORIGIN

1. Exporter Name and Address:	3. Importer Name and Address:
2. Producer Name and Address:	4. Preference Group:
5. Description of Article:	

Group	Each description below is only a summary of the cited CFR provision.	19 CFR
1–A	Apparel assembled from U.S. fabrics and/or knit-to-shape components, from U.S. yarns. All fabric must be cut in the United States.	10.213(a)(1)
2–B	Apparel assembled from U.S. fabrics and/or knit-to-shape components, from U.S. yarns. All fabric must be cut in the United States. After assembly, the apparel is embroidered or subject to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes.	10.213(a)(2)
3–C	Apparel assembled from U.S. fabrics and/or U.S. knit-to-shape components and/or U.S. *and* beneficiary country knit-to-shape components, from U.S. yarns and sewing thread. The U.S. fabrics may be cut in beneficiary countries or in beneficiary countries *and* the United States.	10.213(a)(3) or 10.213(a)(11)



Group	Each description below is only a summary of the cited CFR provision.	19 CFR
4–D	Apparel assembled from beneficiary country fabrics and/or knit-to-shape components, from yarns originating in the United States and/or one or more beneficiary countries.	10.213(a)(4)
5–E	Apparel assembled or knit-to-shape and assembled, or both, in one or more lesser developed beneficiary countries regardless of the country of origin of the fabric or the yarn used to make such articles.	10.213(a)(5)
6–F	Knit-to-shape sweaters in chief weight of cashmere.	10.213(a)(6)
7–G	Knit-to-shape sweaters 50 percent or more by weight of wool measuring 21.5 microns in diameter or finer.	10.213(a)(7)
8–H	Apparel assembled from fabrics or yarns considered in short supply in the NAFTA, or designated as not available in commercial quantities in the United States.	10.213(a)(8) or 10.213(a)(9)
9–I	Handloomed fabrics, handmade articles made of handloomed fabrics, or textile folklore articles – as defined in bilateral consultations.	10.213(a)(10)

6. U.S./African Fabric Producer Name and Address:	7. U.S./African Yarn Producer Name and Address:
	8. U.S. Thread Producer Name and Address:
9. Handloomed, Handmade, or Folklore Article:	10. Name of Short Supply or Designated Fabric or Yarn:

I certify that the information on this document is complete and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document. I agree to maintain, and present upon request, documentation necessary to support this certificate.

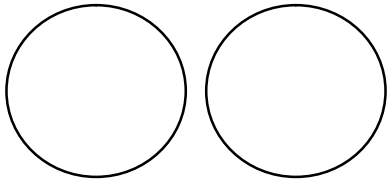
11. Authorized Signature:		12. Company:
13. Name: (Print or Type)		14. Title:
15. Date: (DD/MM/YY)	16. Blanket Period From: To:	17. Telephone: Facsimile:

(c) *Preparation of Certificate*. The following rules will apply for purposes of completing the Certificate of Origin set forth in paragraph (b) of this section:

(1) Blocks 1 through 5 pertain only to the final article exported to the United States for which preferential treatment may be claimed;

(2) Block 1 should state the legal name and address (including country) of the exporter;

(3) Block 2 should state the legal name and address (including country) of the producer. If there is more than one producer, attach a list stating the legal name and address (including country) of all additional producers. If this information is confidential, it is acceptable to state "available to Customs upon request" in block 2. If the producer and the exporter are the same, state "same" in block 2;



(4) Block 3 should state the legal name and address (including country) of the importer;

(5) In block 4, insert the number and/or letter that identifies the preference group which applies to the article according to the description contained in the CFR provision cited on the Certificate for that group;

(6) Block 5 should provide a full description of each article. The description should be sufficient to relate it to the invoice description and to the description of the article in the international Harmonized System. Include the invoice number as shown on the commercial invoice or, if the invoice number is not known, include another unique reference number such as the shipping order number;

(7) Blocks 6 through 10 must be completed only when the block in question calls for information that is relevant to the preference group identified in block 4;

(8) Block 6 should state the legal name and address (including country) of the fabric producer;

(9) Block 7 should state the legal name and address (including country) of the yarn producer;

(10) Block 8 should state the legal name and address (including country) of the thread producer;

(11) Block 9 should state the name of the folklore article or should state that the article is handloomed or handmade;

(12) Block 10 should be completed only when the preference group identifier "8" and/or "H" is inserted in block 4 and should state the name of the fabric or yarn that is in short supply in the NAFTA or that has been designated as not available in commercial quantities in the United States;

(13) Block 11 must contain the signature of the exporter or of the exporter's authorized agent having knowledge of the relevant facts;

(14) Block 15 should reflect the date on which the Certificate was completed and signed;

(15) Block 16 should be completed if the Certificate is intended to cover multiple shipments of identical articles as described in block 5 that are imported into the United States during a specified period of up to one year (see § 10.216(b)(4)(ii)). The "from" date is the date on which the Certificate became applicable to the article covered by the blanket Certificate (this date may be prior to the date reflected in block 15). The "to" date is the date on which the blanket period expires;

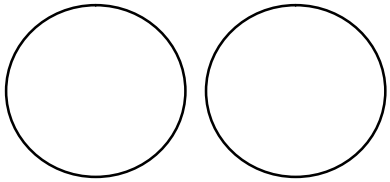
(16) The telephone and facsimile numbers included in block 17 should be those at which the person who signed the Certificate may be contacted; and

(17) The Certificate may be printed and reproduced locally. If more space is needed to complete the Certificate, attach a continuation sheet.

5. In § 10.215, paragraph (a) is revised to read as follows:

§ 10.215 Filing of claim for preferential treatment.

(a) *Declaration*. In connection with a claim for preferential treatment for a textile or apparel article described in § 10.213, the importer must



make a written declaration that the article qualifies for that treatment. The inclusion on the entry summary, or equivalent documentation, of the subheading within Chapter 98 of the HTSUS under which the article is classified will constitute the written declaration. Except in any of the circumstances described in § 10.216(d)(1), the declaration required under this paragraph must be based on an original Certificate of Origin that has been completed and properly executed in accordance with § 10.214, that covers the article being imported, and that is in the possession of the importer.

* * * * * * *

6. In § 10.216, the second sentence of paragraph (b)(4)(ii) is amended by removing the reference "§ 10.214(c)(14)" and adding, in its place, the reference "§ 10.214(c)(15)".

7. In § 10.217, paragraphs (a)(2) and (a)(3) are amended by removing the words "in a beneficiary country".

ROBERT C. BONNER,
Commissioner of Customs.

Approved: February 25, 2003.

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Deputy Assistant Secretary of the Treasury.

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